
From: Freire, JP <jp.freire@mail.house.gov>
To: Manna, Meredith (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=meredith.connelly>
Cc:
Bcc:
Subject: Signed letter from Rep. Ross to Director Mulvaney
Date: Thu Dec 07 2017 12:24:59 EST
Attachments: 171206 - Letter - Dumbledore CFPB.pdf

Dear Ms. Manna,

I've attached the signed letter below.

JP

J.P. Freire
Director of Communications and Policy Advisor
Congressman Dennis A. Ross, R-Florida
(o) 202-225-0782

(b)(6)



null

Last Modified: Thu Dec 07 12:24:59 EST 2017

DENNIS A. ROSS
15TH DISTRICT, FLORIDA

COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND INSURANCE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

AND CONSUMER CREDIT

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

SUBCOMMITTEE ON THE INTERIOR, ENERGY,

AND ENVIRONMENT

SUBCOMMITTEE ON GOVERNMENT
OPERATIONS

WASHINGTON, DC
436 CANNON HOB
WASHINGTON, DC 20515
PHONE: (202) 225-1252
FAX: (202) 226-0585

LAKELAND
170 FITZGERALD ROAD, SUITE 1
LAKELAND, FL 33813
PHONE: (863) 644-8215
FAX: (863) 648-0749

PLANT CITY
110 W. REYNOLDS STREET, SUITE 101
PLANT CITY, FL 33563
PHONE: (813) 752-4790
FAX: (863) 648-0749

CLERMONT
685 W. MONTROSE STREET
CLERMONT, FL 34711
PHONE: (352) 727-2248
FAX: (863) 648-0749

[HTTP://DENNISROSS.HOUSE.GOV](http://DENNISROSS.HOUSE.GOV)

Congress of the United States

House of Representatives

436 Cannon Building

Washington, DC 20515

December 6, 2017

Acting Director Mick Mulvaney
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Mulvaney:

Congratulations on your recent appointment to lead the Consumer Financial Protection Bureau. I am confident your efforts to make the agency more accountable and transparent will benefit the everyday Americans who suffer under CFPB's onerous regulations.

Unfortunately, it seems that some staff at CFPB feel differently. According to a news report from the *New York Times* ("Consumer Bureau's New Leader Steers a Sudden Reversal," Dec. 5), a "small group" of career employees at the Consumer Financial Protection Bureau called "Dumbledore's Army" has established itself as a "secret resistance force" in order to undermine the efforts of both Congress and President Trump to restore proper authority over the Bureau. While I am concerned about a group of government employees engaging in fantasy play on the public dime, I'm even more concerned about the CFPB's ongoing culture of lawlessness.

Such an effort would be laughable if it didn't offend the core principles of our great nation. Americans expect public servants and federal agencies to abide by the rule of law rather than be enchanted with the authority they have summoned out of thin air. As public servants, CFPB employees must act in a good-faith, transparent manner, rather than attempt to hide their work in some cloak of invisibility. Such measures of accountability will help us ensure that the CFPB will engage in regulation based on established law, rather than conjured authority.

Like you, I believe that a flourishing consumer market requires the empowerment of everyday Americans to choose the financial instruments that best suit their needs, instead of having some wizard pick and choose winners and losers out of a magical sorting hat.

Mr. Director, I want to assure you that you have my full support as you work to establish order at the Bureau, and I look forward to continuing to work together.

Sincerely,



Dennis A. Ross
Member of Congress

From: Freire, JP <jp.freire@mail.house.gov>
To: Richo, Stephanie (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=stephanie.richo>
Cc: Foti, Anthony
<anthony.foti@mail.house.gov>
Bcc:
Subject: Letter of Support from Rep. Ross
Date: Thu Dec 07 2017 09:08:25 EST
Attachments: 171206 - Letter - Dumbledore CFPB.pdf

Dear Ms. Richo,

Good morning! Attached please find a letter from Congressman Ross to Acting Director Mulvaney expressing support for his work at CFPB. Please let me know if you have any questions.

Sincerely,

J.P. Freire
Director of Communications and Policy Advisor
Congressman Dennis A. Ross, R-Florida
(o) 202-225-0782
[redacted]
(b)(6)

From: Freeland, Jeff K. EOP/OMB
<jeffrey.k.freeland@omb.eop.gov>
To: Foti, Anthony
<anthony.foti@mail.house.gov>
Cc: Slemrod, Jonathan (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=slemrod, jonathan (cfpb)ef5>
Bcc:
Subject: FW: Letter of Support from Rep. Ross
Date: Thu Dec 07 2017 09:29:47 EST
Attachments: 171206 - Letter - Dumbledore CFPB.pdf
ATT00001.htm

Thanks Anthony. Sending this to Jonny here who is handling the Leg items at CFPB.

From: Foti, Anthony [mailto:Anthony.Foti@mail.house.gov]
Sent: Thursday, December 7, 2017 9:12 AM
To: Freeland, Jeff K. EOP/OMB <Jeffrey.K.Freeland@omb.eop.gov>
Subject: Fwd: Letter of Support from Rep. Ross

FYI.

Anthony Foti
Chief of Staff, Rep. Dennis Ross

Sent from my iPhone, please excuse brevity, typos and auto-correct errors.

Begin forwarded message:

From: "Freire, JP" <JP.Freire@mail.house.gov>
Date: December 7, 2017 at 9:08:25 AM EST
To: "Stephanie.Richo@cfpb.gov" <Stephanie.Richo@cfpb.gov>
Cc: "Foti, Anthony" <Anthony.Foti@mail.house.gov>
Subject: Letter of Support from Rep. Ross
Dear Ms. Richo,

Good morning! Attached please find a letter from Congressman Ross to Acting Director Mulvaney expressing support for his work at CFPB. Please let me know if you have any questions.

Sincerely,

J.P. Freire
Director of Communications and Policy Advisor
Congressman Dennis A. Ross, R-Florida
(o) 202-225-0782

(b)(6)

From: Galicia, Catherine (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=catherine.galicia>
To: Manna, Meredith (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=meredith.connelly>
Cc:
Bcc:
Subject: FW: Letter of Support from Rep. Ross
Date: Thu Dec 07 2017 10:23:40 EST
Attachments: 171206 - Letter - Dumbledore CFPB.pdf

Hi Meredith,

Could you please save this in the z drive and draft an info memo?

Thank you,

Catherine

From: Richo, Stephanie (CFPB)
Sent: Thursday, December 07, 2017 9:52 AM
To: Slemrod, Jonathan (CFPB); Galicia, Catherine (CFPB); Martinez, Zixta (CFPB)
Cc: Fulton, Kate (CFPB); Doyle, Emma
Subject: FW: Letter of Support from Rep. Ross

From: Freire, JP [mailto:JP.Freire@mail.house.gov]
Sent: Thursday, December 07, 2017 9:08 AM
To: Richo, Stephanie (CFPB)
Cc: Foti, Anthony
Subject: Letter of Support from Rep. Ross

Dear Ms. Richo,

Good morning! Attached please find a letter from Congressman Ross to Acting Director Mulvaney expressing support for his work at CFPB. Please let me know if you have any questions.

Sincerely,

J.P. Freire

Director of Communications and Policy Advisor

Congressman Dennis A. Ross, R-Florida

(o) 202-225-0782

(b)(6)



From: Richo, Stephanie (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=stephanie.richo>
To: Slemrod, Jonathan (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=slemrod, jonathan
(cfpb)ef5>; Galicia, Catherine (CFPB) </o=cfpbexc/ou=exchange
administrative group (fydibohf23spdlt)/cn=recipients/cn=catherine.galicia>;
Martinez, Zixta (CFPB) </o=cfpbexc/ou=exchange administrative
group (fydibohf23spdlt)/cn=recipients/cn=zixta.martinez>
Cc: Fulton, Kate (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=kate.fulton>; Doyle, Emma
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=king doyle, emma4a7>
Bcc:
Subject: FW: Letter of Support from Rep. Ross
Date: Thu Dec 07 2017 09:52:21 EST
Attachments: 171206 - Letter - Dumbledore CFPB.pdf

From: Freire, JP [mailto:JP.Freire@mail.house.gov]
Sent: Thursday, December 07, 2017 9:08 AM
To: Richo, Stephanie (CFPB)
Cc: Foti, Anthony
Subject: Letter of Support from Rep. Ross

Dear Ms. Richo,

Good morning! Attached please find a letter from Congressman Ross to Acting Director Mulvaney expressing support for his work at CFPB. Please let me know if you have any questions.

Sincerely,

J.P. Freire
Director of Communications and Policy Advisor
Congressman Dennis A. Ross, R-Florida
(o) 202-225-0782

01(0)



From: Shelton, William (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=william.shelton>
To: Sickbert, Katherine (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=kravchonok, katherine038>
Cc:
Bcc:
Subject: Re: "Dumbledore's Army" FOIA ...
Date: Thu Dec 07 2017 15:15:11 EST
Attachments:

Funny, too, that Jerry mentioned FOIA yesterday in this context.

From: "Sickbert, Katherine (CFPB)" <Katherine.Sickbert@cfpb.gov>
Date: Thursday, December 7, 2017 at 2:35 PM
To: William Shelton <William.Shelton@cfpb.gov>
Subject: RE: "Dumbledore's Army" FOIA ...

Interesting.

From: Shelton, William (CFPB)
Sent: Thursday, December 07, 2017 2:35 PM
To: Sickbert, Katherine (CFPB)
Subject: Re: "Dumbledore's Army" FOIA ...

Presumably, but it popped up in my news feed.

From: "Sickbert, Katherine (CFPB)" <Katherine.Sickbert@cfpb.gov>
Date: Thursday, December 7, 2017 at 2:28 PM
To: William Shelton <William.Shelton@cfpb.gov>
Subject: RE: "Dumbledore's Army" FOIA ...

So this was sent to our FOIA office?

From: Shelton, William (CFPB)
Sent: Thursday, December 07, 2017 2:24 PM
To: Sickbert, Katherine (CFPB); Horton, Jerry (CFPB); Cassidy, David (CFPB)
Subject: "Dumbledore's Army" FOIA ...

Not sure to laugh or cry (or both): <https://causeofaction.org/wp-content/uploads/2017/12/2017-12-06-CFPB-FOIA.pdf>

null

Last Modified: Sun Dec 10 17:43:43 EST 2017

From: Sickbert, Katherine (CFPB)
<katherine.sickbert@cfpb.gov>
To: Sickbert, Katherine (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=kraychonok, katherine038>;
Cassidy, David (CFPB) </o=cfpbexc/ou=exchange administrative
group (fydibohf23spdlt)/cn=recipients/cn=david.cassidy>
Cc:
Bcc:
Subject: EP Contracts / Budget Review
Date: Mon Dec 11 2017 16:31:57 EST
Attachments:

Sickbert, Katherine (CFPB) 1:59 PM:

https://docs.google.com/spreadsheets/d/1hVnJ8CySZ59kfz1-CoMDvxILMYP47XjlyPm_nonjKc/edit#gid=558476563

Cassidy, David (CFPB) 1:59 PM:

Hey!

Sickbert, Katherine (CFPB) 1:59 PM:

I'm gonna start working on this here

the thing John requested

Cassidy, David (CFPB) 1:59 PM:

OK - i sent a clarifying question to John B. Forwarding now.

Sickbert, Katherine (CFPB) 2:00 PM:

can you do 5-6pm review?

Cassidy, David (CFPB) 2:00 PM:

Tanks you!

Sickbert, Katherine (CFPB) 2:00 PM:

thanks

5-6pm?

I will have to get out of another meeting, so let me know

Cassidy, David (CFPB) 2:00 PM:

Yep!

Sickbert, Katherine (CFPB) 5:01 PM:

Hey there

what number should I call you on?

Cassidy, David (CFPB) 5:01 PM:

Hey - are you ready?

x55081 (still in a collab room)

Sickbert, Katherine (CFPB) 5:02 PM:

can you call me at

(b)(6)

?

Cassidy, David (CFPB) 5:02 PM:

calling now

Sickbert, Katherine (CFPB) 5:02 PM:

danke

Sickbert, Katherine (CFPB) 12:22 PM:

Hey

do you have a few minutes?

like 5 minutes?

Sickbert, Katherine (CFPB) 8:32 AM:

Are you on this Mitre call?

I just got in, but don't hear anyone

Cassidy, David (CFPB) 8:33 AM:

I dont have it on my calendar - can you forward it to me and I will join?

Sickbert, Katherine (CFPB) 8:33 AM:

oye

you are on the invitation

Cassidy, David (CFPB) 12:12 PM:

Dumbledore's Army comment - NYT

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html>

Sickbert, Katherine (CFPB) 12:14 PM:

Thanks!

Cassidy, David (CFPB) 12:26 PM:

straight outta hogwarts

Cassidy, David (CFPB) 4:28 PM:

I have to run to a meeting with Bob Q and Tim Yehle

Sickbert, Katherine (CFPB) 4:28 PM:

okay, cool

From: Lu, Alice (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=lu, alice (contractor)f9b>

To: Weber, Megan (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=weber, meganb75>; Ham, Tony (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=tony.ham>; Mitchell, Carly (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=carly.rockstroh>; Audet, Robert (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=robert.audet>; Hoover, Alison (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=alison.hoover>; Fox, Riley (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=fox, riley (contractor)6d5>; Stranzl, Colleen (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=stranzl, colleen75c>; O'Hallaron, Keiley (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=elizabeth.osborn>; Rivera-Colon, Pilar (Contractor)(CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=pilar.riveracruz14366171>

Cc:

Bcc:

Subject: CFPB News: Bi-weekly Team Meeting

Date: Mon Dec 11 2017 16:59:16 EST

Attachments:

Hi everyone, looking forward to meeting tomorrow for our bi-weekly team meeting!

Here are some recent CFPB news bytes:

Trump says fines for Wells Fargo will not be dropped: you all may remember when CFPB conducted an investigation on Wells Fargo that resulted in \$100 million in fines for mortgage lending abuses. Richard Cordray was considering additional fines against Wells Fargo but the investigation was frozen when Cordray resigned. You may have been wondering if these fines were still going to be valid with the recent change in CFPB leadership. According to this article, Mulvaney is looking at the investigations on an individual basis and Trump tweeted that the fines will not be dropped, if anything, they may be substantially increased. Trump tweets he "will cut Regs but make penalties severe when caught cheating." Many think this could be an "empty promise" as Trump signed a bill earlier this year that overruled new regulations written by CFPB that banned mandatory arbitration agreements and would have allowed bank customers to sue their banks together. Currently, there is a possibility that Congress will veto another set of regulations CFPB wrote that would regulate the payday lending industry.

Judge in CFPB Leadership Case Sets Swift Court Schedule: Leandra English continues to challenge the previous ruling by Trump-appointed judge that Mulvaney is the rightful acting director of CFPB. Proceedings for English v. Trump are continuing through this month of December as English filed an amended complaint and motion for a preliminary injunction in the U.S. District Court for D.C. to reverse

the district court's previous ruling supporting Mulvaney. She is arguing that "Mulvaney is ineligible to run CFPB because of the line of succession established in Dodd-Frank as well as the Federal Reserve's independence since CFPB was created within the Fed system and Mulvaney is a senior White House aide."

"The hearing on the motion for preliminary injunction is Dec. 22 and Judge Kelly's decision on that motion is eligible for appeal to the U.S. Court of Appeals for the D.C. Circuit." As the case continues, Mulvaney will remain as Acting Director and English as Deputy Director. Mulvaney has indicated that he has no intention of firing English.

Another tidbit I think is interesting (disclaimer: only those who have read Harry Potter will get this) is that apparently some employees at the CFPB are calling themselves "Dumbledore's Army," a group quietly resisting the new change in leadership to "Umbridge/Mulvaney"

-----Original Appointment-----

From: Weber, Megan (Contractor)(CFPB)
Sent: Tuesday, October 31, 2017 4:52 PM
To: Weber, Megan (Contractor)(CFPB); Lu, Alice (Contractor)(CFPB); Ham, Tony (Contractor)(CFPB); Mitchell, Carly (Contractor)(CFPB); Audet, Robert (Contractor)(CFPB); Hoover, Alison (Contractor) (CFPB); Fox, Riley (Contractor)(CFPB); Stranzl, Colleen (Contractor)(CFPB); O'Hallaron, Keiley (Contractor)(CFPB); Rivera-Colon, Pilar (Contractor)(CFPB)
Subject: Bi-weekly Team Meeting
When: Tuesday, December 12, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Dial-in: 888-398-2338 A0 (b)(6)



image004.jpg for Printed Item: 179 [Attachment]

null

Last Modified: Fri Dec 08 10:59:11 EST 2017

image004.jpg for Printed Item: 185 [Attachment]

From: No-Reply-CFPB-Mattermost
<no-reply-cfpb-mattermost@cfpb.gov>
To: Reed, Marteki (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=naamarteki.reed>
Cc:
Bcc:
Subject: [CFPB Matters] New Notifications for December 7, 2017
Date: Thu Dec 07 2017 14:25:35 EST
Attachments:

You have 3 new notifications.

Direct Message from

@stephanielevy 14:10 EST, December 7
I downloaded the FOIA. It's a trip.

[Go to Post](#)

Direct Message from

@stephanielevy 14:10 EST, December 7
a few things
[Go to Post](#)
Direct Message from

@stephanielevy 14:11 EST, December 7
1. We're adults. It's Order of the Phoenix.
2. Dumbledore's Army was the resistance against Umbridge.
3. He Who MUST Not be Named

[Go to Post](#)

Any questions at all, mail us any time: UnfortunatelyYouAreOnYourOwn@cfpb.gov.
Best wishes,
The CFPB Matters Team

To change your notification preferences, log in to your team site and go to Account Settings > Notifications.

From: Arthur, Bruce (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=bruce.arthur>
To: Quinn, Robert (CFPB)
(Robert.Quinn@cfpb.gov) <robert.quinn@cfpb.gov>
Cc:
Bcc:
Subject: FW: CFPB-2018-121
Date: Thu Dec 07 2017 11:51:22 EST
Attachments: eric bolinder 12.6.17 CoA Institute FOIA Request 12.6.2017.pdf
CWEmbed1.unknown
CWEmbed2.pdf

Hi Bob –

Let me know if you have any availability this afternoon. We need to chat about catching Dumbledore's Army...

From: Walter, Holly (CFPB)
Sent: Thursday, December 07, 2017 11:25 AM
To: Arthur, Bruce (CFPB)
Subject: CFPB-2018-121

Good Morning!

The Bureau received a FOIA request related to technology equipment and software. Specifically, 1) CFPB devices on which encrypted messaging applications were installed, 2) efforts by CFPB to recover, investigate the use of, or archive messages sent over any encrypted messaging application, and 3) communications sent or received over any encrypted messaging application OR similar applications. I am attaching the request for your review. When you have a moment, can we discuss the request?

Holly C. Walter

Government Information Specialist | Operations Division

Office: (202) 435-7210 | (b)(6)

Consumer Financial Protection Bureau

consumerfinance.gov/foia

null

Last Modified: Thu Dec 07 11:51:22 EST 2017

From: Eric Bolinder
To: CFPB_FOIA
Cc: McDonald, Ryan (CFPB); CFPB_FOIA; Lee Steven
Subject: CoA Institute FOIA Request 12.6.2017
Date: Wednesday, December 06, 2017 3:25:25 PM
Attachments: image001.png
CoA Institute 12.6.17 FOIA CFPB.pdf

Please find attached a FOIA Request from the Cause of Action Institute dated December 6, 2017.

Thanks!

Eric R. Bolinder | Counsel
Cause of Action Institute
1875 Eye Street NW, Suite 800
Washington, D.C. 20006
(o) 202-470-2396 / (c) 202-603-7926
Eric.Bolinder@causcofaction.org

- Admitted to the District of Columbia Bar and the Virginia State Bar

CAUSE *of* ACTION
= INSTITUTE =

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CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

December 6, 2017

VIA E-MAIL

Consumer Financial Protection Bureau
Ms. Raynell D. Lazier, FOIA Manager, Operations Division/Chief FOIA Officer
1700 G Street, NW
Washington, DC 20552
E-mail: CFPB_FOIA@consumerfinance.gov

Re: Freedom of Information Act Request

Dear Ms. Lazier:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability.

A December 6, 2017 article by the *New York Times* reported that government employees at the Consumer Financial Protection Bureau (“CFPB”) are communicating among themselves using encrypted messaging applications:

One small group calls itself “Dumbledore’s Army,” according to two of the people who were familiar with their discussions. The name is a reference to a secret resistance force in the “Harry Potter” books.

An atmosphere of intense anxiety has taken hold, several employees said. In some cases, conversations between staff that used to take place by phone or text now happen almost exclusively in person or through encrypted messaging apps.²

CoA Institute is concerned that these individuals may be using the encrypted messaging applications to avoid transparency laws in an effort to conceal their communications from internal and external oversight. Under the Federal Records Act, the CFPB has a legal obligation to preserve federal records

¹ See CAUSE OF ACTION INSTITUTE, *About*, www.causeofaction.org/about/.

² Jessica Silver-Greenberg, *Consumer Bureau’s New Leader Steers a Sudden Reversal*, N.Y. TIMES, Dec. 5, 2017, <https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html>.

Ms. Raynell D. Lazier

December 6, 2017

Page 2

created or received by its employees regardless of medium.³ Such messages also should be made available under the Freedom of Information Act (“FOIA). If records have been destroyed or removed from agency custody, the CFPB has an obligation to notify the Archivist of the United States and initiate action to recover those records.⁴

CoA Institute is conducting an investigation into the CFPB’s reported use of encrypted messaging applications and any potential records destruction or failure to preserve. To that end, and pursuant to the FOIA, 5 U.S.C. § 552, CoA Institute hereby requests access to the following records for the time period September 1, 2017 to the present:

1. All records reflecting the total number of CFPB devices on which encrypted messaging applications (e.g., Signal, Cyphr, WhatsApp, Viber, etc.)⁵ OR similar applications that automatically delete records (e.g., Snapchat) were installed. This includes any correspondence between CFPB and any other entity, such as the National Archives and Records Administration, the Federal Reserve Board of Governors Office of the Inspector General, or the White House.
2. Any internal policy memos, emails, guidelines, handbooks, or other materials detailing CFPB policies on the use of encrypted messaging apps.
3. All records reflecting efforts by CFPB to recover, investigate the use of, or archive messages sent over any encrypted messaging application OR similar applications that automatically delete records.
4. All communications sent or received over any encrypted messaging application OR similar applications that automatically delete records.

³ See 44 U.S.C. chs. 21, 29, 31, 33; NAT’L ARCHIVES & RECORDS ADMIN., BULL. 2015-02, GUIDANCE ON MANAGING ELECTRONIC MESSAGES (2015), available at <https://www.archives.gov/records-mgmt/bulletins/2015/2015-02.html>.

⁴ 44 U.S.C. § 3106(a); 36 CFR § 1230.14 (providing that “[t]he agency must report promptly any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to the National Archives and Records Administration” and outlining the content of such a report).

⁵ This list contains examples of encrypted applications but is not intended to be an exhaustive list for search purposes.

Ms. Raynell D. Lazier

December 6, 2017

Page 3

5. All communications sent or received that contain the words “Dumbledore,” “Dumbledore’s Army,” “Snape,” “Voldemort,” “He-who-shall-not-be-named,” “encrypted message,” OR “encrypted messaging.”

Request for a Public Interest Fee Waiver

CoA Institute requests a waiver of any and all applicable fees. FOIA and applicable regulations provide that the agency shall furnish requested records without or at reduced charge if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”⁶ In this case, disclosure is in the public interest as it will significantly contribute to the public understanding of CFPB’s use of encrypted messaging applications and any possible record destruction. If individual CFPB employees are using these applications to evade the FOIA and the requirements of the FRA, the public, Congress, and other Executive Branch officials must be made aware. This is especially important given the requirements of 44 U.S.C. § 3106(a).

CoA Institute has both the intent and ability to make the results of this request available to a reasonably broad public audience through various media. Its staff has significant experience and expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through the Institute’s regularly published online newsletter, memoranda, reports, or press releases.⁷ In addition, as CoA Institute is a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, it has no commercial interest in making this request.

Request To Be Classified as a Representative of the News Media

For fee status purposes, CoA Institute also qualifies as a “representative of the news media” under FOIA.⁸ As the D.C. Circuit recently held, the “representative of the news media” test is properly focused on the requestor, not the specific FOIA

⁶ 5 U.S.C. § 552(a)(4)(A)(iii); 12 C.F.R. § 1070.22(e)(1)(iii); see also *Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115-19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

⁷ See also *Cause of Action*, 799 F.3d at 1125-26 (holding that public interest advocacy organizations may partner with others to disseminate their work).

⁸ 5 U.S.C. § 552(a)(4)(A)(ii)(II); 12 C.F.R. § 1070.22(b)(1)(iv).

Ms. Raynell D. Lazier

December 6, 2017

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request at issue.⁹ CoA Institute satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Although it is not required by the statute, CoA Institute gathers the news it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. It does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, newsletters, and congressional testimony and statements for the record.¹⁰ These

⁹ See *Cause of Action*, 799 F.3d at 1121.

¹⁰ See, e.g., CoA Institute, *Documents Reveal Special Interest Groups Lobbied HUD for Mortgage Settlement Funds* (Aug. 8, 2017), <http://coainst.org/2yLaTyF>; CoA Institute, *The GSA Has No Records on its New Policy for Congressional Oversight Requests* (July 26, 2017), <http://coainst.org/2eHooVq>; COA INSTITUTE, SENSITIVE CASE REPORTS: A HIDDEN CAUSE OF THE IRS TARGETING SCANDAL (Mar. 2017), <http://coainst.org/2y0fbOH>; CoA Institute, *Sec. Vilsack followed ethics guidelines when negotiating his future employment*, (Feb. 3, 2017), <http://coainst.org/2mJlijE>; COA INSTITUTE, INVESTIGATIVE REPORT: PRESIDENTIAL ACCESS TO TAXPAYER INFORMATION (Oct. 2016), <http://coainst.org/2d7qTRY>; James Valvo, *There is No Tenth Exemption* (Aug. 17, 2016), <http://coainst.org/2doJhBt>; COA INSTITUTE, MEMORANDUM: LEGAL ANALYSIS OF FORMER SECRETARY OF STATE HILLARY CLINTON'S USE OF A PRIVATE SERVER TO STORE EMAIL RECORDS (Aug. 24, 2015), <http://coainst.org/2eXhXe1>; CoA Institute, *CLA too busy for transparency* (Aug. 11, 2016), <http://coainst.org/2mtzhhP>; Hearing on Revisiting IRS Targeting: Progress of Agency Reforms and Congressional Options Before the Subcomm. on Oversight, Agency Action, Fed. Rights & Fed. Courts of the S. Comm. on the Judiciary, 114th Cong. (Aug. 5, 2015) (statement of Erica L. Marshall, Counsel, CoA Inst.), <http://coainst.org/2mJC8DH>; Hearing on Watchdogs Needed: Top Government Investigator Positions Left Unfilled for Years Before the S. Comm. on Homeland Sec. & Gov't Affairs, 114th Cong. (June 3, 2015) (statement of Daniel Z. Epstein, Exec. Dir., CoA Inst.), <http://coainst.org/2mrwHr1>; Hearing on Ongoing Oversight: Monitoring the Activities of the Justice Department's Civil, Tax and Environmental and Natural Resources Divisions and the U.S. Trustee Program Before the H. Comm. on the Judiciary, 114th Cong. (May 19, 2015) (statement of Daniel Z. Epstein, Exec. Dir., CoA Inst.), <http://coainst.org/2n7IxWG>; COA INSTITUTE, 2015 GRADING THE GOVERNMENT REPORT CARD (Mar. 16, 2015), <http://coainst.org/2as088a>; Hearing on Potential Reforms to the Freedom of Information Act (FOIA) Before the H. Comm. on Oversight & Gov't Reform, 114th Cong. (Feb. 27, 2015) (statement of Daniel Z. Epstein, Exec. Dir., CoA Inst.), <http://coainst.org/2lLsph8>; Hearing on IRS: TIGTA Update Before the H. Comm. on Oversight & Gov't Reform, 114th Cong. (Feb. 26, 2015) (statement of Prashant K. Khetan, Chief Counsel, CoA Inst.), <http://coainst.org/2nn5iFj>; Cause of Action Launches Online Resource: ExecutiveBranchLearmarks.com (Sept. 8, 2014), <http://coainst.org/2aj8sm5>; COA INSTITUTE, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS (Mar. 18, 2014), <http://coainst.org/2aFWxUZ>; COA INSTITUTE, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), <http://coainst.org/2apTwqP>; CoA Institute, Political Profiteering: How Forest City Enterprises Makes Private Profits at the Expense of American Taxpayers Part I (Aug. 2, 2013), <http://coainst.org/2ajh901>; CoA Institute, *Newspapers*, <http://causeofaction.org/media/news/newsletter/>.

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distinct works are distributed to the public through various media, including the Institute's website, Twitter, and Facebook. CoA Institute also provides news updates to subscribers via e-mail.

The statutory definition of a "representative of the news media" contemplates that organizations such as CoA Institute, which electronically disseminate information and publications via "alternative media[,] shall be considered to be news-media entities."¹¹ In light of the foregoing, numerous federal agencies—including the CFPB—have appropriately recognized the Institute's news media status in connection with its FOIA requests.¹²

¹¹ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

¹² FOIA Request CFPB-2017-361-F, Consumer Fin. Prot. Bureau (June 13, 2017); *see, e.g.*, FOIA Request 2016-11-008, Dep't of the Treasury (Nov. 7, 2016); FOIA Requests OS-2017-00057 & OS-2017-00060, Dep't of Interior (Oct. 31, 2016); FOIA Request 2017-00497, Office of Personnel Management (Oct. 21, 2016); FOIA Request 092320167031, Centers for Medicare & Medicaid Services (Oct. 17, 2016); FOIA Request 17-00054-F, Dep't of Educ. (Oct. 6, 2016); FOIA Request DOC-OS-2016-001753, Dept. of Commerce (Sept. 27, 2016); FOIA Request 2016-09-101, Dep't of the Treasury (Sept. 21, 2016); FOIA Request DOC-OIG-2016-001732, Dept. of Commerce OIG (Sept. 15, 2016); FOIA Request OS-2016-00435, Dep't of the Interior (Aug. 31, 2016); FOIA Request 2016-366-F, Consumer Fin. Prot. Bureau (Aug. 11, 2016); FOIA Request F-2016-09406, Dept. of State (Aug. 11, 2016); FOIA Request 2016-08-070, Dep't of the Treasury (Aug. 10, 2016); FOIA Request 2016-00896, Bureau of Land Mgmt., Dep't of the Interior (Aug. 10, 2016); FOIA Request 1355038-000, Fed. Bureau of Investigation, Dep't of Justice (Aug. 2, 2016); FOIA Request 2016-HQFO-00502, Dept. of Homeland Security (Aug. 1, 2016); FOIA Request CFPB-2016-222-F, Consumer Fin. Prot. Bureau (Apr. 20, 2016); FOIA Request CFPB-2016-207-F, Consumer Fin. Prot. Bureau (Apr. 14, 2016); FOIA Request 796939, Dep't of Labor (Mar. 7, 2016); FOIA Request 2015-HQFO-00691, Dep't of Homeland Sec. (Sept. 22, 2015); FOIA Request F-2015-12930, Dept. of State (Sept. 2, 2015); FOIA Request 14-401-F, Dep't of Educ. (Aug. 13, 2015); FOIA Request HQ-2015-01689-F, Dep't of Energy (Aug. 7, 2015); FOIA Request 2015-OSEC-04996-F, Dep't of Agric. (Aug. 6, 2015); FOIA Request OS-2015-00419, Dep't of Interior (Aug. 3, 2015); FOIA Request 780831, Dep't of Labor (Jul 23, 2015); FOIA Request 15-05002, Sec. & Exch. Comm'n (July 23, 2015); FOIA Request 145-FOI-13785, Dep't of Justice (Jun. 16, 2015); FOIA Request 15-00326-F, Dep't of Educ. (Apr. 08, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm'n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep't of Energy (Nat'l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Commc'n Comm'n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep't of Energy (Dec. 4, 2014); FOIA Request F-2014-21360, Dep't of State, (Dec. 3, 2014); FOIA Request LR-2015-0115, Nat'l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, Dep't of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, Dep't of Interior (Office of Sec'y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep't of Energy (Nat'l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep't of Energy (Nat'l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat'l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch.

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Record Preservation Requirement

CoA Institute requests that the disclosure officer responsible for the processing of this request issue an immediate hold on all records responsive, or potentially responsive, to this request, so as to prevent their disposal until such time as a final determination has been issued on the request and any administrative remedies for appeal have been exhausted. It is unlawful for an agency to destroy or dispose of any record subject to a FOIA request.¹³

Record Production and Contact Information

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If a certain portion of responsive records can be produced more readily, CoA Institute requests that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by telephone at (202) 470-2396 or by e-mail at eric.bolinder@causeofaction.org. Thank you for your attention to this matter.



Eric R. Bolinder
Counsel

Comm'n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep't of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep't of Commerce (Dec. 30, 2013); FOIA Request 14E-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep't of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep't of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep't of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep't of Educ. (Jan. 20, 2012).

¹³ 36 C.F.R. § 1230.3(b) ("Unlawful or accidental destruction (also called unauthorized destruction) means . . . disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records."); *Chambers v. Dep't of the Interior*, 568 F.3d 998, 1004-05 (D.C. Cir. 2009) ("[A]n agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under the FOIA or the Privacy Act."); *Judicial Watch, Inc. v. Dep't of Commerce*, 34 F. Supp. 2d 28, 41-44 (D.D.C. 1998).

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From: Rodriguez, Avelino
<averodriguez@fdic.gov>
To: Gilbert, Tara (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=tara.gilbert>
Cc:
Bcc:
Subject: FW: FDIC Daily News Briefing
Date: Wed Dec 06 2017 11:58:44 EST
Attachments: image001.jpg
image002.png

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From: FDIC Daily News Briefing [mailto:FDICDailyNewsBriefing@burrellesluce.com]
Sent: Wednesday, December 06, 2017 8:34 AM
Subject: FDIC Daily News Briefing

Daily News Summary
Wednesday, December 06, 2017

Report Overview:
Total Clips (33)

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[Bank Failure Could Still Spark Crisis, Treasury Researcher Says](#)

12/05/2017

Wall Street Journal

Ben Eisen

The failure of a large financial institution could still set off or magnify a crisis, according to a report published Tuesday by an independent arm of the U.S. Treasury Department.

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[Big Banks Would Benefit from the Tax Bill — After an Initial Hit](#)

12/05/2017

Bloomberg Markets

Laura J. Keller

The Republican tax bill is good news for big banks.

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Tax reform to unleash business lending? Not so fast

12/05/2017

American Banker

Kristin Broughton, Andy Peters and Laura Alix

Over the past year, as business lending has remained stuck in the doldrums, bankers have largely pinned the blame on Washington lawmakers' failure to get things done, especially slashing taxes.

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Mulvaney's plan to embed political staffers in CFPB sparks backlash

12/05/2017

American Banker

Kevin Wack

Critics are blasting Mick Mulvaney's aggressive push to rapidly remake the Consumer Financial Protection Bureau, arguing that his plans threaten to compromise the agency's independence, while also establishing a blueprint for undermining the autonomy of other financial regulatory agencies.

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New lawsuit challenges CFPB appointment by President Trump

12/06/2017

Associated Press

A federal credit union in New York City has sued President Donald Trump, saying his acting director of the Consumer Financial Protection Bureau is "trying to minimize its existence."

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Hearing in CFPB leadership legal battle set for Dec. 22

12/05/2017

American Banker

John Heitman

A federal judge said Tuesday that he will hear motions Dec. 22 in a case that seeks a preliminary injunction against acting Consumer Financial Protection Bureau Director Mick Mulvaney and would instead install Deputy Director Leandra English as interim head of the agency.

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Trump Appointee Moves to Yank Out a Consumer Watchdog's Teeth

12/06/2017

New York Times

Jessica Silver-Greenberg and Stacy Cowley

The defanging of a federal consumer watchdog agency began last week in a federal courthouse in San

Francisco.

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Plan to Prevent Banks From Seducing Regulators Dies Under Trump

12/06/2017

Bloomberg Markets

Jesse Hamilton

A high-profile plan to prevent federal watchdogs from getting too cozy with banks they are supposed to police has been scrapped by President Donald Trump's newest Wall Street regulator.

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'This is the final product': Reg relief backers resist changes to bill

12/05/2017

American Banker

Ian McKendry

A bipartisan Senate alliance working on a bank regulatory relief bill appeared even stronger Tuesday as it worked to minimize changes in the interest of moving the legislative package to the Senate floor.

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Bipartisan Bank-Relief Bill Wins Approval From Senate Panel

12/06/2017

Bloomberg Politics

Elizabeth Dexheimer

A key U.S. Senate panel has cleared a bill that could bring financial firms a significant chunk of the regulatory relief they've sought since the Dodd-Frank Act became law in 2010.

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Senate Banking approves bill that would ease financial rules

12/05/2017

Politico Pro

Zachary Wambrodt

The Senate Banking Committee today approved S. 2155 (115), a bipartisan bill that would dial back a range of banking regulations.

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Senate Panel Backs Easing Bank Rule

12/06/2017

Wall Street Journal

Andrew Ackerman

A Senate panel Tuesday approved a plan to ease the rule book for regional banks, advancing the most significant bipartisan rollback of financial regulations since postcrisis rules were put in place.

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Senate panel votes to roll back some Dodd-Frank requirements

12/05/2017

Associated Press

Kevin Freking

A Senate panel on Tuesday approved legislation that would provide banks and credit unions with relief from some of the stricter regulatory requirements put in place after the 2008 financial crisis.

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SEC Aims to Advance Nominees for Audit Regulator

12/05/2017

Wall Street Journal

Dave Michaels

The Securities and Exchange Commission is preparing to overhaul the board of the country's premier audit watchdog, including replacing its chairman with a longtime Republican aide on Capitol Hill.

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Senate panel overwhelmingly approves Powell as Fed chair

12/05/2017

American Banker

John Heltman

A Senate panel on Tuesday morning approved Federal Reserve Gov. Jerome Powell's nomination to chair the Fed beginning early next year, putting President Trump's pick one step closer to assuming one of the nation's most important executive offices.

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Senate Panel Advances Powell's Nomination to Be Next Fed Chairman

12/05/2017

Wall Street Journal

Kate Davidson

The Senate Banking Committee voted Tuesday to advance the nomination of Federal Reserve governor Jerome Powell to be the next chairman of the U.S. central bank.

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Warren Casts Lone Vote Against Powell in Senate Committee

12/05/2017

Bloomberg Politics

Randy Woods

Federal Reserve Governor Jerome Powell, facing a Senate committee vote on his nomination to become the central bank's chairman, won strong bipartisan support that suggests he'll sail through the full Senate.

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Senate Banking Committee votes to recommend Jerome Powell for confirmation as Federal Reserve chair

12/05/2017

CNBC

Jeff Cox

The Senate Banking Committee on Tuesday approved Fed Governor Jerome Powell to take over as chair of the central bank.

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U.S. Senate panel backs Powell for Fed chief

12/05/2017

Reuters

Lindsay Dunsmuir

The U.S. Senate Banking Committee on Tuesday voted to approve Fed Governor Jerome Powell to lead the Federal Reserve, sending his nomination to the full Senate for a vote.

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Cyber, big bank resolutions among top stability risks, watchdog agency says

12/05/2017

American Banker

John Heltman

Cybersecurity risks, challenges in large institution resolution planning and unforeseen changes in market structure are the most significant threats to the stability of the financial system, the Office of Financial Research said Tuesday.

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Ken Chenault's Parting Warning: Banks Made Big Error on Payments

12/05/2017

Bloomberg Markets

Jennifer Surane

Ken Chenault addressed his last investor conference Tuesday as head of American Express Co., delivering a stark warning: China's payments model is coming, and U.S. banks risk being sidelined.

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Ex-CFPB Boss Cordray Running for Governor

12/06/2017

Wall Street Journal

Yuka Hayashi

Richard Cordray, the former chief of the Consumer Financial Protection Bureau, said he is running for governor of Ohio.

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Why the Fed, Baffled by Low Inflation, Is Ready to Raise Rates

12/06/2017

New York Times

Binyamin Appelbaum

The Federal Reserve is poised to raise its benchmark interest rate next week, at its final meeting of the year, as the economy continues to gain strength and the unemployment rate continues to fall.

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GAO effectively scraps CFPB auto lending guidance

12/05/2017

American Banker

Rob Blackwell

The Consumer Financial Protection Bureau's 2013 guidance putting indirect auto lenders on the hook for unintentional discrimination by their partner dealers should have been subject to Congressional review and must be resent by the agency, the Government Accountability Office said Tuesday.

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Banking Industry News

Time to address banks' skepticism about data sharing

12/05/2017

American Banker

Penny Crosman

When bankers complain about the security risks of sharing data with fintechs, they get an eye roll.

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JPMorgan, Bank of America Say Trading Revenue to Fall in Fourth Quarter

12/05/2017

Wall Street Journal

Emily Glazer and Rachel Louise Ensign

Bank executives are flagging another tough quarter for trading as quiet markets again hurt a key Wall Street business.

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Reducing payments does more than reducing principal, study shows

12/05/2017

American Banker

Bonnie Sinnock

Cutting payments helps stave off default, but principal reduction on underwater loans and lower consumer debt levels are less effective, according to the JPMorgan Chase Institute's new study of post-crisis modifications.

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Economic News

Regulatory angst curbs investor appetite for European banks

12/05/2017

Reuters

Danilo Masoni

Uncertainty about the timing and scope of regulatory efforts to strengthen Europe's financial system is adding to investor caution about increasing exposure to European over U.S. banks, even as the economy and earnings improve.

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U.K. Banks Aren't Telling Regulators About All Cyber Attacks

12/05/2017

Bloomberg Markets

Suzi Ring

U.K. banks still aren't telling regulators about all the cyber attacks on the financial services industry despite a ten-fold increase in reports to the Financial Conduct Authority over the last four years.

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Italy's bad loan scheme poised to deliver after long gestation

12/05/2017

Reuters

Valentina Za

A complex scheme Italy conceived to help the country's banks offload their bad loans seems ready at last to deliver on its potential, as the lenders fight their way through a mass of practical problems.

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Greek banks beat target in push to shrink bad loan mountain- cenbank

12/05/2017

Reuters

[George Georgopoulos](#)

Greek banks made further progress during the fourth quarter in reducing their exposure to doubtful and non-performing loans, central bank data showed on Tuesday.

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[Opinions/Blogs](#)

Regulators say they promote innovation, but the opposite is true

12/05/2017

American Banker

Eric Grover

The economist Art Laffer famously drew a graph on a napkin illustrating that beyond a certain point, increasing tax rates lead to reduced tax revenue.

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Wall Street got almost everything on its wish list in Republicans' tax package

12/06/2017

Washington Post

Tory Newmyer

Giant banks narrowly averted a disaster in the Senate tax bill that passed over the weekend.



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[FDIC in the News \(Full-Text\)](#)

Bank Failure Could Still Spark Crisis, Treasury Researcher Says

12/05/2017

Wall Street Journal

Ben Eisen

The failure of a large financial institution could still set off or magnify a crisis, according to a report published Tuesday by an independent arm of the U.S. Treasury Department.

Even with post-crisis rules aimed at laying out a plan to deal with the potential collapse of a large institution, the financial system could be shaken if one or more big banks fail, according to the report. Of particular concern is whether insolvent banks would be able to deal with their derivatives portfolios, an issue that helped exacerbate the 2008 financial crisis.

A key risk, the report found, is the simultaneous failure of multiple global systemically important banks, a regulatory classification that includes major firms like Citigroup and JPMorgan Chase & Co. "It is doubtful that more than one G-SIB could be restructured and released from [Federal Deposit Insurance Corp.] oversight — much less be wound down — quickly enough to stabilize the U.S. financial system," the report said.

A bank failure during a market crisis that's worse than expected could also pose difficulties for banks seeking to raise funds by ditching parts of their businesses. "Market strains could hinder asset disposition strategies," the report said.

Rules governing systemically important financial institutions were part of a slew of regulations put in

place through the Dodd-Frank Act that overhauled financial regulations after the 2008 crisis. In recent months, the Trump administration and Republican lawmakers have sought to ease many of those regulations, including some that determine how big banks would manage insolvency.

The assessment was authored by the Office of Financial Research, an independent research unit of the Treasury Department that was founded as part of the Dodd-Frank Act. It described the risk as part of its annual report that looks at hazards to financial stability. This year, the report found that risks were in the “medium range.” Other risks cited by the report include susceptibility to cyber-security breaches and evolution in market structure, including efforts to replace a key financial benchmark known as the London Interbank Offered rate.

“The system is far more resilient than it was when the financial crisis loomed a decade ago, but new vulnerabilities have emerged, including in the last fiscal year,” according to a related OFR report prepared for Congress, also released Tuesday.

The Dodd-Frank Act lays out two ways to resolve a bank failure: easing the path for a firm to resolve itself through bankruptcy, and placing a bank into receivership overseen by the FDIC, a process known as Orderly Liquidation Authority. Some lawmakers have recently sought to repeal OLA.

If OLA ceased to be a resolution option, failed banks would have to resolve themselves through bankruptcy, which poses risks for unwinding trillions of dollars of derivatives, according to the OFR report. When Lehman Brothers filed for bankruptcy in 2008, the bank’s trading partners terminated many derivatives contracts, which magnified the impact of Lehman’s failure on the financial system.

Without OLA, banks with large derivatives holdings in nonbank subsidiaries could see their derivatives contracts terminated by counterparties in bankruptcy. Most banks’ derivatives are held in banking subsidiaries that would be subject to FDIC oversight regardless of whether OLA exists. But the OFR report cites Bank of America, Goldman Sachs Group, and Morgan Stanley three banks with large derivatives portfolios in nonbank subsidiaries.

It may also be difficult for banks to wind down their portfolios if they have high concentrations of one type of derivative, according to the OFR. For many big banks, interest-rate derivatives make up a large amount of those portfolios.

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Big Banks Would Benefit from the Tax Bill — After an Initial Hit

12/05/2017

Bloomberg Markets

Laura J. Keller

The Republican tax bill is good news for big banks. At least, it will be once the initial pain wears off.

JPMorgan Chase & Co. expects a fourth-quarter "adjustment" of as much as \$2 billion largely driven by the firm's unremitting overseas earnings facing taxation, Chief Financial Officer Marianne Lake said Tuesday at an investor conference. Bank of America Corp. Chief Executive Officer Brian Moynihan said his firm would also take a hit, having to decrease the value of its deferred tax assets.

"If something gets enacted this year, there would be an adjustment in the fourth quarter; for us, that would be negative and not small," Lake said. "But as you move forward, depending on when the tax cut comes in, we would benefit from the lower rate."

The proposed bill was a big topic at the year's last major banking conference, and executives were more positive on the long-term effects of the bill -- both for them and their clients. Wells Fargo & Co. CEO Tim Sloan said the changes could add another half a percent to gross domestic product, while Moynihan said corporate clients are telling the bank they've been waiting for certainty on tax changes so they can decide on long-term capital expenditure plans.

"It will unleash some activity, no question," Moynihan said of the tax plan. "It's good for corporate America, and it's good for us."

Investors have been driving up U.S. bank shares over the last year in anticipation of policy and regulatory changes expected from Donald Trump and his Republican allies. The nation's two largest banks -- JPMorgan and Bank of America -- have each jumped more than 50 percent since Trump's election, surpassing both the KBW Bank Index's 43 percent rise and a 24 percent gain for the S&P 500 Index.

While Moynihan noted that lenders would no longer be able to deduct as much of what they pay in premiums to the Federal Deposit Insurance Corporation, Lake said that the lower corporate tax rate -- whether it ends up at 20 percent or 22 percent -- will outweigh any loss of deductions for her company.

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Tax reform to unleash business lending? Not so fast

12/05/2017

American Banker

Kristin Broughton, Andy Peters and Laura Alix

Over the past year, as business lending has remained stuck in the doldrums, bankers have largely pinned the blame on Washington lawmakers' failure to get things done, especially slashing taxes.

So it stands to reason that, with Congress poised to permanently cut corporate tax rates in the weeks ahead, a surge in lending could be right around the corner. But CEOs at some of the nation's biggest banks aren't holding their breath.

Speaking at an industry conference in New York, PNC Financial Services Group CEO Bill Demchak threw cold water on the idea that a tax overhaul will unleash a wave of pent-up loan demand.

"I don't know that there's going to be a pickup in growth," Demchak said.

Provisions in the tax bill to enhance the deduction for capital expenditures would likely encourage companies to invest and borrow more, Demchak said, but it's "wildly optimistic" to assume that companies are simply standing on the sidelines, waiting for Congress to act before they decide to do so.

"For me to say, yes, that's true, then I'd also have to say that I think [gross domestic product] is going to be 5% next year, and I don't think that's going to be the case," Demchak said.

Throughout the conference, which was sponsored by Goldman Sachs, several big-bank executives — from JPMorgan Chase, Wells Fargo and other companies — said that the looming reduction in corporate rates would likely boost business confidence. Under the version of the tax bill passed by the Senate on Friday, the corporate rate would fall to 20% from 35% in 2018.

Still, some executives acknowledged that it will take more than a tax cut to boost commercial lending. Wells CEO Tim Sloan, for instance, said that higher interest rates will have a bigger impact on loan growth, encouraging businesses to take out bank loans instead of refinancing debt in the capital markets.

"Corporate [chief financial officers] and treasurers did a smart thing in the second and third quarter," Sloan said. "They looked at where rates were and said, 'This is probably the lowest period we're going to see in our lives, let's take advantage of it.'"

Over the past year, the pace of lending to businesses has steadily decelerated. During the third quarter, business lending across the industry grew by about 2% from a year earlier, down from a growth rate of just over 7% at the end of 2016.

Pittsburgh-based PNC has been a standout, expanding its commercial loan portfolio by 7% during the third quarter, a stronger pace than many of its peers.

Officials at Minneapolis-based U.S. Bancorp said they expect loan growth to remain flat compared with the third quarter, at just under 1%.

The House and Senate have passed different versions of tax reform over the past month. They are expected to iron out the differences in a conference committee in the coming weeks, with final passage expected before the end of the year.

Over the weekend, President Trump suggested that the corporate rate may increase to 22% as Republican leaders negotiate the final bill.

To be sure, some big-bank chiefs were upbeat about the prospects for lending growth next year, during the industry conference Tuesday.

Executives at U.S. Bancorp said that provisions in the tax bill related to accelerated depreciation will likely give customers the nudge they need to borrow more.

"Uncertainty around tax policy has caused a little bit of a wait and see," said U.S. Bancorp CEO Andy Cecere. "Once that clarity comes in, I think there's going to be more activity."

Brian Moynihan, CEO of Bank of America, agreed. "I think it'll unleash activity, no question," he said.

The likely reduction in corporate taxes, of course, would be a boon to the bottom lines of banks themselves. But even on that count the tax overhaul could cause a few headaches.

If the tax overhaul is signed into law this year, JPMorgan Chase could take a hit of about \$2 billion during the fourth quarter, due an adjustment for unremitted overseas earnings, according to Chief Financial Officer Marianne Lake.

Over time, however, the New York megabank would likely reinvest its tax savings into product development, and also look at ways to provide "better pricing" to customers, Lake said.

"We're not looking for a windfall gain to hit our bottom line and stick there in totality," Lake said.

In addition to the commentary on corporate taxes, executives at the conference also said they remain optimistic about the potential for regulatory relief and lower compliance costs in the months ahead.

Grayson Hall, CEO of Regions Financial in Birmingham, Ala., said the company was encouraged by an effort in the Senate to lift the threshold for systemically important financial institutions to \$250 billion from \$50 billion. Regions, which has \$122.5 billion in assets, would benefit from the legislation.

"We think it helps our business be more flexible and dynamic in the way we manage capital and the way we manage liquidity," Hall said.

BB&T CEO Kelly King expressed skepticism that Congress will succeed in lifting the SIFI threshold. Under the Senate bill, the \$214.8 billion-asset BB&T would fall just shy of the SIFI mark.

"I don't think it's highly likely that the \$250 billion bright-line mark will pass," King said, describing the increased threshold as "irrelevant" to the Winston-Salem, N.C. company.

Big-bank executives, meanwhile, said the recent changing of the guard among Washington regulators is another reason to be hopeful that relief from post-crisis compliance burdens is right around the corner.

Discussing regulatory relief, JPMorgan's Lake said she has been listening closely to the public speeches of the new regulators, including Federal Reserve Vice Chairman of Supervision Randal Quarles, to get a sense of potential changes ahead.

She cited a number of policies that are likely "on the table," including more transparent assumptions for stress testing, a recalibration of the leverage ratio, clarification on the Volcker rule, changes to the "cadence" of resolution planning and the potential for a sweeping changes to mortgage lending regulations.

"We're not looking for people to throw the balls up in the air," Lake said. "But there's a lot of improvements that could take place, and a lot of transparency and call for evidence and things that will be very, very helpful, and won't compromise safety and soundness."

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Mulvaney's plan to embed political staffers in CFPB sparks backlash

12/05/2017

American Banker

Kevin Wack

Critics are blasting Mick Mulvaney's aggressive push to rapidly remake the Consumer Financial Protection Bureau, arguing that his plans threaten to compromise the agency's independence, while also establishing a blueprint for undermining the autonomy of other financial regulatory agencies.

Mulvaney, the White House budget director who was named the bureau's acting director last month by President Trump, said Monday that he plans to start hiring political staffers, and to pair them with the career officials who currently head various CFPB divisions.

For "every major branch of CFPB — enforcement, rulemaking, education, legal, maybe somebody in the Northeast division, somebody in the Southeast division, somebody out West," Mulvaney said he would "try to marry [that branch's] senior staffer ... up with a political position."

Those comments poured fuel on an already smoldering legal fight for control of the six-year-old consumer agency. Leandra English, who was named deputy director by outgoing Director Richard Cordray, filed a lawsuit last week seeking to block Mulvaney's appointment. The Trump administration won the first round of the court battle; the next hearing is scheduled for Dec. 22.

Congress designed the CFPB to be an independent agency in the mold of the Federal Deposit Insurance Corp., the Office of the Comptroller of the Currency and the Federal Reserve Board. Those agencies typically have far fewer political appointees than other parts of the executive branch.

At the OCC, the only political appointee is Comptroller Joseph Otting, a spokesman said Tuesday. Members of the FDIC's board are political appointees, but the agency has just one additional political staffer, according to a spokeswoman. And the Federal Reserve Board has no political staff appointees, though its board members are confirmed by the Senate.

Barney Frank, the former Democratic congressman who co-authored the 2010 law that gave birth to the CFPB, accuses Republicans of trying to shut down the consumer bureau through administrative means.

"They haven't got the votes to do it politically," he said during an interview Tuesday. "So obviously what they are hoping to do, if the court upholds their version, is put somebody in charge of the agency who would effectively shut it down."

Aaron Klein, director of the Center on Regulation and Markets at the Brookings Institution, said that the implications of Mulvaney's hiring plans go beyond the CFPB. Klein served as a Democratic Senate staffer while the Dodd-Frank Act was being written, and he later worked in the Obama-era Treasury Department.

He said that Mulvaney's plans "should send shivers down the spine" of anyone who supports independent financial regulation.

Congress has granted financial regulatory agencies independence under an assumption that their work is more technical and less political, according to a recent report from the Congressional Research Service.

"A reduction of presidential influence also constricts one path by which partisan politics might interfere with apolitical technical- and analytical-based decision making by experts," the report stated.

But congressional Republicans contend that the CFPB — the brainchild of Elizabeth Warren, a Harvard

law professor who later became a Democratic senator — was politicized from the start. Cordray's candidacy in the Democratic primary for Ohio governor is likely to bolster that conviction.

"I further look forward to working with Director Mulvaney to restore true accountability and due process of law to an agency that desperately needs it," House Financial Services Committee Chairman Jeb Hensarling, R-Texas, said in a Nov. 25 statement.

Industry representatives, meanwhile, have welcomed Mulvaney's leadership.

"We look forward to working with Acting CFPB Director Mick Mulvaney to bring transparent and balanced consumer protections to all customers and small businesses," Richard Hunt, CEO of the Consumer Bankers Association, said in a Nov. 28 press release. "Many actions conducted previously by the CFPB as well as those that are pending warrant a thorough review."

During his press conference Monday, Mulvaney — a former GOP congressman and fervent critic of the CFPB — appeared to dismiss concerns that his hiring plans would politicize an independent agency. He suggested the CFPB has been political anyway, judging from its policies, even though its employees are not technically political appointees.

"Come on now, there's 1,600 people who work here," Mulvaney told reporters. "It tells you maybe they didn't think they needed to have political people here because a lot of the people were political anyway, even though they're professional."

Mulvaney has already hired Brian Johnson, a former top Republican staffer for the House Financial Services Committee, to assist with day-to-day operations of the CFPB.

When asked about his timeline for adding more political staffers, Mulvaney had a terse reply. "Now," he said.

Mulvaney also noted that the process of assigning political staffers to career staffers who head divisions has long been used at the Office of Management and Budget, which Mulvaney also heads. He contended that the OMB's system works well.

But at a public meeting of the Senate Banking Committee Tuesday to consider regulatory relief legislation, Warren said "the whole idea" of the CFPB was to "insulate it from political influence to the extent possible like all banking regulators."

"For Mr. Mulvaney to come in and see how much he can politicize the operations of the CFPB, takes that agency in exactly the opposite direction and undercuts its ability to do its work on behalf of American consumers," she said.

Meanwhile, Mulvaney's simultaneous status as both a senior White House official and the acting director of the CFPB has also stoked criticism of his approach.

One former senior official at the CFPB, who spoke on condition of anonymity, blasted Mulvaney for discarding the principle of independent financial regulation.

"The principle is one that's very important here, and it's one that he either doesn't know about or doesn't care about," said the former official, who is now in the private sector. "You need it to be able to make decisions without fear or favor."

Jeff Hauser, executive director of the Revolving Door Project at the left-leaning Center for Economic and Policy Research, questioned whether Mulvaney's hiring plans have received sufficient legal vetting. For example, he raised the question of whether there will be an ethics onboarding process for the new political hires.

"I think there are a lot of legal issues that are probably insufficiently thought through," Hauser said.

A Mulvaney spokesman said he would look into questions about the acting director's vow to add political staffers, including whether the CFPB's general counsel has blessed the plan.

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New lawsuit challenges CFPB appointment by President Trump

12/06/2017

Associated Press

A federal credit union in New York City has sued President Donald Trump, saying his acting director of

the Consumer Financial Protection Bureau is "trying to minimize its existence."

The Lower East Side People's Federal Credit Union lawsuit was filed Tuesday in Manhattan federal court. It says the bureau created in 2010 after the 2008 financial crisis is an independent watchdog to protect consumers of the U.S. financial services industry.

The lawsuit challenges the Republican president's appointment of White House budget director Mick Mulvaney as the bureau's acting director. It says Mulvaney doesn't like the bureau's existence and is trying to minimize it. It asks a judge to declare bureau deputy director Leandra English the acting director.

Similar litigation has been rejected by a Washington federal judge.

The government hasn't commented on the lawsuit.

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Hearing in CFPB leadership legal battle set for Dec. 22

12/05/2017

American Banker

John Heitman

A federal judge said Tuesday that he will hear motions Dec. 22 in a case that seeks a preliminary injunction against acting Consumer Financial Protection Bureau Director Mick Mulvaney and would instead install Deputy Director Leandra English as interim head of the agency.

The case comes after D.C. District Court Judge Timothy Kelly — who was appointed to the bench by President Trump — sided with Mulvaney late last month after Richard Cordray abruptly resigned as the bureau's director and tapped English, the deputy director, as his successor.

The Dodd-Frank Act stipulates that the agency's deputy director shall serve in the "absence or

"unavailability" of the director, but the White House argued that the law is superseded by the 1998 Vacancies Reform Act, which gives the president the power to name interim heads of executive agencies. English asked the court for an emergency injunction to prevent Mulvaney from assuming the post, but Kelly sided with the White House. He has not yet ruled on the full merits of the case, however.

English will be required to file a motion for a preliminary injunction by Wednesday, Dec. 6, and any amicus briefs to support her must be filed by Friday, Dec. 8. A response from Mulvaney is due on Dec. 18, as are any amicus briefs in support. English's reply to Mulvaney's motion will be due Dec. 20.

Most lawyers give English long odds of succeeding, but a ruling against her by Kelly is unlikely to be the end of the case. Her lawyer has indicated that if the decision goes against her, he will appeal.

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Trump Appointee Moves to Yank Out a Consumer Watchdog's Teeth

12/06/2017

New York Times

Jessica Silver-Greenberg and Stacy Cowley

The defanging of a federal consumer watchdog agency began last week in a federal courthouse in San Francisco. After a nearly three-year legal skirmish, the Consumer Financial Protection Bureau appeared to have been victorious.

A judge agreed in September with the bureau that a financial company had misled more than 100,000 mortgage customers.

As punishment, the judge ordered the Ohio company, Nationwide Biweekly Administration, to pay nearly \$8 million in penalties. All that was left was to collect the cash.

Last week, lawyers from the consumer bureau filed an 11-page brief asking the judge to force Nationwide to post an \$8 million bond while the proceedings wrapped up.

Then Mick Mulvaney was named the consumer bureau's acting director. Barely 48 hours later, the same lawyers filed a new two-sentence brief. Their request: to withdraw their earlier submission and no longer take a position on whether Nationwide should put up the cash.

It was a subtle but unmistakable sign that the consumer bureau under Mr. Mulvaney is headed in a new direction - one that takes a lighter touch to regulating the financial industry.

The reversal is part of a broad push by the Trump administration to unfetter companies from Obama-era regulations. At the agency, change has been swift.

Mr. Mulvaney briefly stopped approval of payments to some victims of financial crime, halted hiring, froze all new rulemaking and ordered a review of active investigations and lawsuits. Some, he has indicated, will be abandoned. "This place will be different, under my leadership and under whoever follows me," Mr. Mulvaney said Monday about an agency that he previously denounced as a "sad, sick" example of bureaucracy gone amok.

Mr. Mulvaney took over leadership of the bureau, created in the aftermath of the global financial crisis, less than two weeks ago. The abrupt resignation of Richard Cordray, the bureau's longtime director, who had been appointed by President Barack Obama, set off an extraordinary public fight for control of the agency. The battle pitted Mr. Mulvaney, who was named acting director by President Trump, against Leandra English, the bureau's deputy director under Mr. Cordray.

While Mr. Trump can appoint his own director, confirmation could take months. Until then, the acting director is in charge. Last week, a federal judge ruled in Mr. Mulvaney's favor, denying an emergency motion that Ms. English had filed to stop the White House from selecting a temporary director. The suit is continuing.

The bureau has been investigating Santander, the giant Spanish bank, for overcharging auto loan customers. Given the tenor of recent conversations inside the bureau, agency lawyers suspect the investigation could be shelved under Mr. Mulvaney, according to four people with knowledge of the case who requested anonymity to discuss an investigation. Raschelle Burton, a spokeswoman for Santander, said the company was not aware of any planned lawsuit from the C.F.P.B. Agency employees said they were scrutinizing every comment and memo from their new leader for hints about their future.

Some employees, including a few of the bureau's top officials, have welcomed their new leader. Others, pointing to Mr. Mulvaney's earlier hostility toward the agency and its mission, are quietly resisting. One small group calls itself "Dumbledore's Army," according to two of the people who were familiar with their discussions. The name is a reference to a secret resistance force in the "Harry Potter" books.

An atmosphere of intense anxiety has taken hold, several employees said. In some cases, conversations between staff that used to take place by phone or text now happen in person or through encrypted messaging apps. Mr. Mulvaney has begun examining lawsuits filed by the agency and its process of gathering information from companies under investigation.

The bureau's demand letters - an investigative tool used in the early stages of investigations - are "fairly broad and fairly burdensome," he told reporters on Monday. That same day, the bureau suspended an inquiry into a company that had objected to the regulator's demands for information. In that case, the bureau sent an information request in August to Nexus Services, a Verona, Va., company that provides bail bonds for detained immigrants.

Nexus objected to the agency's "overly broad and unduly burdensome" request and refused to comply. In October, the company sued the bureau in Federal District Court in Washington, seeking to stop the bureau's investigators from contacting its customers and business partners.

At a court appearance on Monday, the bureau's lawyers agreed to halt the inquiry until Nexus' lawsuit is resolved, court records said. A senior adviser to Mr. Mulvaney, who was not authorized to speak publicly, said the decision had been made after discussions with Nexus and the judge. Remaking the agency, which has unusual authority and independence, has been a priority for Republicans since it was created in 2010. Until Mr. Cordray left, they had gotten very little traction.

The agency often took an aggressive stance toward regulating and punishing businesses. It extracted nearly \$12 billion in refunds and canceled debts for 29 million consumers.

After Mr. Trump took office, Mr. Cordray seemed to double down on the aggressive approach. He unleashed a fusillade of rules and enforcement actions, including new restrictions on the payday lending industry.

Mr. Mulvaney said he thought Congress should strike down those rules, just as they recently did with a rule that would have allowed borrowers to band together in class action lawsuits against financial institutions over unfair and deceptive business practices.

But as the Nationwide case shows, congressional action isn't the only way to change the consumer bureau's strategy. Nationwide described itself as a provider of services to help customers reduce interest payments on their mortgages.

Two years ago, shortly after it was sued by the consumer bureau, the company suspended its operations. Now, it wants to get back into business - but it cannot afford to do so if it must immediately pay the \$8 million fine. It is too broke to even afford a bond, the company's owner, Daniel S. Lipsky,

said in a court filing. If the court does not require the bond, Nationwide Biweekly can begin operating again, Mr. Lipsky said.

Early last week, Mr. Lipsky's lawyer overnighted a personal appeal to Mr. Mulvaney, pleading her client's case. Mr. Mulvaney said he was aware of the letter but had not read it. He was so far only holding internal meetings with bureau employees, he said at the meeting with reporters, and has not yet responded to the messages he has received from consumer groups, bankers and lobbyists.

"I don't want anybody to say Mulvaney was swayed one way or another by somebody who sent him a FedEx package," he said. The bureau's withdraw of its request for Nationwide to post a bond had come at Mr. Mulvaney's direction, according to two of the people.

The adviser to Mr. Mulvaney disputed the idea that the decision represented a significant change in the bureau's stance. The agency was simply taking a more agnostic role in the case, Mr. Mulvaney's adviser said. Nationwide's lawyer, Helen Mac Murray, said the shift was a promising sign. Her client is eager to resume operations.

This week, a judge granted the company's request to proceed without a bond. "As we've said for years, this is a law-abiding business that helps consumers save money," Ms. Mac Murray said. "We're hopeful that the new leadership at C.F.P.B. will follow the law and stop using unchecked and unreasonable bureaucratic tyranny to shut down a business that helps consumers."

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Plan to Prevent Banks From Seducing Regulators Dies Under Trump

12/06/2017

Bloomberg Markets

Jesse Hamilton

A high-profile plan to prevent federal watchdogs from getting too cozy with banks they are supposed to police has been scrapped by President Donald Trump's newest Wall Street regulator.

For years, the Office of the Comptroller of the Currency intended to remove hundreds of examiners who

work inside the offices of JPMorgan Chase & Co., Citigroup Inc. and other lenders. In just his second week on the job, OCC chief Joseph Otting nixed the effort.

"Upon review, it is not practical to continue the agency's efforts to move resident examiners out of on-site locations," Otting, a former banker, said in a statement to Bloomberg News.

Other reforms, such as regularly rotating supervisors from bank to bank so they don't spend too long in a particular firm, show the OCC has taken steps to prevent "regulatory capture," said Otting, who ran OneWest Bank Group when Treasury Secretary Steven Mnuchin was the lender's chairman. Factors cited as contributing to the OCC maintaining the status quo include the high cost of Manhattan real estate and the burden examiners would face in slogging back and forth between government offices and Wall Street banks.

The move is the latest example of how regulators under Trump are quietly rethinking Wall Street oversight even if they've made little progress so far easing rules passed in the wake of the 2008 financial crisis. Pulling embedded examiners out of big banks had been considered a key initiative to ensure supervisors didn't develop a form of Stockholm Syndrome that kept them from aggressively looking out for abuses.

Beat Cops

The supervisors employed by the OCC and the Federal Reserve Bank of New York are akin to cops walking the beat, because they are tasked with the crucial job of making sure banks follow the rules and don't take undue risks. The agencies have special office space in each lender's building, with their supervisors largely quarantined from casual interactions with bankers.

At the OCC, the regulator of national banks, Otting is halting something that hasn't happened yet. About 65 percent of its large-bank examination force remains on-site, the same as two years ago, according to the regulator. And the number of embedded supervisors has actually risen to 517 from 430 in 2015.

The controversy over in-house watchdogs came to a head in 2012 when Carmen Segarra, a former senior examiner of Goldman Sachs Group Inc. at the New York Fed, claimed she was fired for refusing to withdraw negative findings about the bank. While a lawsuit she filed against the New York Fed was eventually dismissed, her complaints and recordings she'd made of Fed meetings triggered lawmaker demands for increased examiner independence.

The issue gained more attention in 2015 because of an embarrassing situation in which a Goldman Sachs banker pleaded guilty to accepting stolen documents from a friend who worked at the New York Fed.

Former Comptroller of the Currency Thomas Curry, a Barack Obama appointee, spearheaded the OCC's effort to remove embedded supervisors. His plan focused on leaving a small number in place, while shifting the rest to regional teams that could focus on dangers that cut across multiple banks.

Fed Relocations

The New York Fed started a similar effort years ago to ship most of its roughly 200 in-house examiners to its downtown offices. So far, only a small number of people have moved, according to a person with knowledge of the process who asked not to be named because the agency hasn't publicly laid out the details of its plan. The Fed still intends to relocate employees, the person said.

The OCC began reevaluating things under Keith Noreika, a former bank lawyer who ran the agency on an acting basis for several months this year. He thought it made sense to pull examiners out in smaller cities such as Pittsburgh, but not in New York, where office space is notoriously expensive.

"There seemed to be a directive existing before I got here that they have to be moved out, whatever the cost," Noreika, who plans to return to the private sector, said in an interview. "I just put a pause on that because I wanted us to continue effective supervision."

Noreika said he doesn't buy arguments that an on-site presence translates to regulatory capture, or a growing tendency to be sympathetic to industry viewpoints. He added that when he worked as an attorney for banks, his interactions with examiners were limited.

'Sacred Space'

"My own experience with the OCC being on premises is it was entirely sacred space," he said. "You weren't allowed to eat lunch with them."

But a confidential study commissioned by the New York Fed in 2009 that was later made public paints a different picture. The report said in-house examiners relied on good relationships with bankers to do their jobs and often believed "that a non-confrontational style will enhance that process." It also noted an "excessive deference" to lenders and a reluctance "to press changes on the supervised banks."

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'This is the final product': Reg relief backers resist changes to bill

12/05/2017

American Banker

Ian McKendry

A bipartisan Senate alliance working on a bank regulatory relief bill appeared even stronger Tuesday as it worked to minimize changes in the interest of moving the legislative package to the Senate floor.

The legislation, which passed the Senate Banking Committee 16-7, is the culmination of years of negotiations between moderate Democrats and Republicans on the panel. While the bill is not as ambitious as other relief proposals, it is the banking industry's best prospect to roll back financial regulations since the Dodd-Frank financial reform law was passed in 2010.

Lawmakers supporting the bill made a pact not to agree to changes — even changes they favored — so they could keep the alliance intact. As a result, the panel made no substantive changes to the bill before it sending it to the full Senate.

"There are going to be some amendments today that I think have good merit. Very reluctantly I am going to have to vote against most if not all of them because I gave my word," said Sen. John Kennedy, R-La. But he added there was no guarantee he would support the bill on the Senate floor since he wants stricter curbs on the credit reporting agencies.

Senate Banking Committee Chairman Mike Crapo, R-Idaho, said that with the legislation being a "bipartisan compromise," it wasn't going to please everyone. "None of us got everything," he said.

Speaking to reporters, Crapo said the show of unity was "the same dynamic that was going through as negotiations occurred." He negotiated the final bill — which includes raising the asset threshold for "systemically important" banks from \$50 billion to \$250 billion, simplified capital requirements and a Volcker Rule exemption for small banks — with a core of moderate Democrats after his talks broke down with Sen. Sherrod Brown of Ohio, the committee's ranking Democrat who opposes the bill.

However, Crapo added that the bill could be changed before the full Senate votes.

"The Senators who support the bill are still very willing to negotiate and that includes those who are not on the committee and those who may not support the bill," said Crapo.

Still, with the exception of some technical changes, the committee as a whole was uninterested in considering many amendments, including those proposed by progressive members who objected to the deal that was made between Republicans and four moderate Democrats on the panel.

"These amendments are offered in good faith," said Sen. Elizabeth Warren, D-Mass. "I am very sorry to hear my colleagues say that deals cut behind closed doors" will stop them from voting for "good amendments."

But members of Warren and Brown's party who supported the compromise held strong. Perhaps the strongest indicator of the commitment from Democrats supporting the deal was when Sen. Catherine Cortez Masto, D-Nev., introduced an amendment reinstating the Consumer Financial Protection Bureau's politically contentious arbitration rule. The four moderate Democrats who had cut the deal with Crapo — Joe Donnelly of Indiana, Heidi Heitkamp of North Dakota, Jon Tester of Montana and Mark Warner of Virginia — all voted against the amendment.

"We have been at this for five or six years and ... this is the final product," Tester of the overall bill.

Warner said, "I believe we are kind of at the breaking point" of what can be negotiated "and I will be voting down ... many of those amendments."

Some Republicans, despite supporting the package, said their preference was for more dramatic regulatory relief.

Sen. Pat Toomey, R-Pa., said, "I am going to support this [bill] because I think it certainly does more good than harm."

However, Toomey said he wanted to work with other members on the panel to go further to ease regulations for big banks including changes to liquidity standards, capital requirements for large banks known as the "advanced approaches" and eliminating a numerical threshold for "systemically important" institutions.

"No one can seriously argue that a bank of \$250 billion in assets is intrinsically more risky than a bank

with \$249 billion in assets," said Toomey.

More progressive members on the panel said they opposed the bill because it did not go far enough to provide additional consumer protections.

"I support providing some relief to small banks and credit unions, but I think this bill unwisely chooses to do so by rolling back protections for people from the very activities that led to the crisis," said Brown.

The biggest disagreement between Brown and Crapo appeared to be over changes to stress testing and giving Trump-appointed regulators more discretion.

"This language in the bill ... is probably the biggest reason I oppose this bill. It is about stress testing" changes, said Brown.

"It repeals the stress tests for regional banks and leaves it to the recently installed regulators to come up with a replacement and think who those regulators are," added Brown. He said he would have been more comfortable giving that authority to Federal Reserve Board Chair Janet Yellen and former Fed Gov. Dan Tarullo who were more supportive of stronger regulations. (Fed Gov. Jerome Powell has been nominated to succeed Yellen as chair.)

However, Crapo said, "I don't share your distrust of the new members of the Fed board."

The bill's support in the Senate appears to be expanding, making its full passage even more likely. During debate, Crapo indicated that Delaware Democrats Tom Carper and Chris Coons will both be joining 10 other Democrats and 10 Republicans that co-sponsored the legislation.

"You are going to have a filibuster proof majority for this bill on the floor," said Sen. Brian Schatz, D-Hawaii, who opposed the legislation.

Under the bill, banks above the new proposed \$250 asset threshold would still be subject to enhanced supervision under Dodd-Frank. Banks below the threshold would be released from that supervision unless the Federal Reserve separately designated them as risky.

The bill would also raise the asset threshold for banks to complete company-run stress tests, and require that such stress tests are conducted on a periodic, rather than semiannual, basis.

The bill would also simplify capital requirements for well-capitalized banks with assets of less than \$10 billion, exempt such institutions from the Volcker Rule and give federal savings associations with assets below \$15 billion more flexibility to operate as national banks. Banks with less than \$5 billion in assets would be able to file shorter call reports.

Mortgages held on portfolio for banks and credit unions with less than \$10 billion in assets would also meet the criteria of the CFPB's "Qualified Mortgage" rule.

Banking panel members also expressed a desire to do more to regulate credit reporting agencies. The panel held a hearing with former Equifax Chief Executive Officer Richard Smith in October after the company revealed that a hack compromised the personal information of 143 million consumers.

"That's one that is obviously going to get more discussion. Now whether that results in something on this bill or something in the future I think it is pretty clear there is an interest on both sides to find some further progress there," Crapo told reporters.

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Bipartisan Bank-Relief Bill Wins Approval From Senate Panel

12/06/2017

Bloomberg Politics

Elizabeth Dexheimer

A key U.S. Senate panel has cleared a bill that could bring financial firms a significant chunk of the regulatory relief they've sought since the Dodd-Frank Act became law in 2010.

Bipartisan legislation advanced Tuesday by the Senate Banking Committee would revise many parts of the sweeping 2010 overhaul, particularly those pertaining to small and regional banks. It would free midsize lenders from some of the strictest post-crisis oversight and cut compliance costs for community banks. It also includes some tweaks that Wall Street has sought, including a change to how banks classify municipal bonds.

The bill sponsored by Senator Mike Crapo, the Idaho Republican who leads the banking panel, has

backing from several Democrats. That support from across the aisle means the proposal represents the financial industry's best hope in years of dialing back rules that it blames for inhibiting lending and needlessly increasing the cost of doing business.

"The underlying goal of the legislation is one I have long advocated: easing the burden for the banks that pose less risk and cost to the financial safety net and ultimately to the taxpayer while enabling stronger economic growth," Federal Deposit Insurance Corp. Vice Chairman Thomas Hoenig said in a statement in which he proposed refinements that lawmakers should consider.

House Bill

Tuesday's vote moves the bill to the full Senate, where it will need to gain approval before it can be merged with a measure from the U.S. House. Representative Jeb Hensarling, the Texas Republican who leads the Financial Services Committee, has won House passage of legislation that goes far beyond Crapo's in making changes to Dodd-Frank, like gutting the Consumer Financial Protection Bureau and repealing Volcker Rule trading restrictions. Democrats who signed onto Crapo's bill would be unlikely to agree with Hensarling's plan, which passed the House in a party-line vote.

The Senate bill would raise to \$250 billion from \$50 billion the asset threshold for banks to be subjected to stricter Federal Reserve supervision for systemically important financial institutions.

American Express Co., BB&T Corp., KeyCorp and other companies freed from the higher compliance costs associated with being deemed too big to fail would still be subject to some Fed requirements, such as stress tests to assess whether they can endure severe economic slumps. Other regional banks, including Capital One Financial Corp., U.S. Bancorp and PNC Financial Services Group Inc. wouldn't escape SIFI designation with the higher threshold and would still face tighter scrutiny than their smaller rivals.

Municipal Bonds

Crapo's legislation also gives firms like JPMorgan Chase & Co. and Citigroup Inc. more incentive to invest in municipal bonds by letting them count the securities in required stockpiles of assets that could be sold to provide funding in a crisis.

Custodial banks such as State Street Corp. and Bank of New York Mellon Corp. would see relief from some capital requirements. JPMorgan and Citigroup, which also have large custody units, wouldn't benefit from that provision.

Under the Senate plan, banks with less than \$10 billion in assets would be exempt from the Volcker Rule restrictions on making market bets with their own capital. The measure also would scrap a Volcker provision that restricts hedge funds from sharing names with affiliated banks. BlackRock Inc., the world's largest asset manager, is among firms that have lobbied for such a change.

"These reforms make progress toward Treasury's core financial principles released in June and demonstrate bipartisan support to re-balancing our regulatory framework," Joseph Otting, who was sworn in last week as Comptroller of the Currency, said in a statement. "I look forward to working with the members of the committee and fellow regulators to continue this work in the weeks and months ahead."

The Senate panel's action shows that lawmakers from both parties can come together to make "common-sense improvements" to financial regulation, according to Financial Services Roundtable Chief Executive Officer Tim Pawlenty.

Even with bipartisan support, Crapo's bill still faces hurdles to becoming law anytime soon. Republican leaders in the Senate are far more focused on their massive effort to overhaul tax policy, and lawmakers are also in negotiations over spending legislation to avert a government shutdown.

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Senate Banking approves bill that would ease financial rules

12/05/2017

Politico Pro

Zachary Warmbrodt

The Senate Banking Committee today approved S. 2155 (115), a bipartisan bill that would dial back a range of banking regulations.

The committee advanced the bill in a 16-7 vote after a markup that lasted several hours.

The bill's supporters adopted a so-called manager's amendment with changes to the legislation. Provisions in the amendment included unlimited, free credit freezes and unfreezes for consumers.

Republicans and Democrats who backed the bill banded together to oppose several Democratic amendments that would have limited the regulatory rollbacks offered to lenders. The committee spent hours debating and voting down the amendments.

WHAT'S NEXT: The legislation is expected to have enough support for passage in the Senate if it comes up for a vote.

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Senate Panel Backs Easing Bank Rule

12/06/2017

Wall Street Journal

Andrew Ackerman

A Senate panel Tuesday approved a plan to ease the rule book for regional banks, advancing the most significant bipartisan rollback of financial regulations since postcrisis rules were put in place.

The Senate Banking Committee voted 16-7 to sign off on the bill, after a group of Republicans and Democrats reached an agreement on its provisions in November.

If enacted, the bill could drastically cut the number of banks subject to heightened Federal Reserve oversight by raising a regulatory threshold to \$250 billion in assets from \$50 billion. It also would ease red tape affecting credit unions and community banks, changes that supporters said would boost lending.

The measure will "help tailor the current regulatory landscape" by "relieving the burden on American businesses that are unfairly being treated like the largest companies in our economy," Senate Banking Committee Chairman Mike Crapo (R., Idaho) said ahead of the vote.

The bill is expected to advance through the full Senate in early 2018. The House also needs to act on

the plan for it to have a chance at becoming law. Congressional staff said the House would likely make some changes to the bill and send it back to the Senate.

Lawmakers are unlikely to reconcile the Senate bill with a broader plan to undo the 2010 Dodd-Frank financial law that passed the House earlier this year, called the Financial Choice Act.

Though members of the banking panel submitted more than 100 different amendments to the legislation, all of the changes the committee agreed to appeared modest and intended to stick to the spirit of the bipartisan deal hammered out between Mr. Crapo and a group of moderate Democrats.

Liberal Democrats who opposed the measure said it doesn't do enough to aid consumers and could put the broader economy at risk. "If we learned anything from the financial crisis, it is that deregulation of the banks doesn't create economic growth, instead it puts millions of Americans at risk," said Sen. Sherrod Brown (D., Ohio), the panel's senior Democrat.

One set of changes, included as an amendment from Mr. Crapo, would fix drafting errors in the initial bill, such as clarifying that an exemption to the Volcker rule - which bars banks from making wagers with their own money - applies only to financial institutions with less than \$10 billion in total assets. An earlier version of the legislation could have exempted much larger institutions from the rule.

Other changes targeted credit-monitoring bureaus. One, written by Sen. David Perdue (R., Ga.), would require such companies to offer consumers an unlimited number of free credit freezes and unfreezes, up from a requirement that they only offer one free freeze or unfreeze a year in an earlier draft. The measure is a response to the data breach reported earlier this year by Equifax Inc.

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Senate panel votes to roll back some Dodd-Frank requirements

12/05/2017

Associated Press

Kevin Freking

A Senate panel on Tuesday approved legislation that would provide banks and credit unions with relief

from some of the stricter regulatory requirements put in place after the 2008 financial crisis.

The bill, which was approved by a 16-7 vote, raises the threshold at which bank holding companies are considered too big to fail, thus subjecting them to financial stress tests and a capital-planning review. The threshold would increase from \$50 billion to \$250 billion.

The panel rejected an array of amendments that senators said could unravel a bipartisan agreement crafted over several months.

The bill is much narrower than what the House passed earlier this year in an effort to undo much of the financial law, known as Dodd-Frank. That bill had no chance of gaining the 60 votes necessary to overcome a filibuster in the Senate.

Supporters from both major parties said the Senate legislation would make it easier for credit unions, community banks and many regional, midsized banks to lend money and enhance economic growth.

"This package of common-sense reforms recognizes that it is important to tailor regulation appropriately," said Idaho Sen. Mike Crapo, the Republican chairman of the Senate Banking, Housing and Urban Affairs Committee.

Some Democratic lawmakers opposed the measure. Ohio Sen. Sherrod Brown, the ranking Democratic member of the committee, said banks will save money, but working people struggling with student loan debt and underwater mortgages won't.

"If we learned anything from the financial crisis, it is that deregulation of the banks doesn't create economic growth. Instead, it puts millions of Americans at risk, like the 5 million families who were foreclosed upon during the crisis," Brown said.

In the end, every Republican on the panel voted for the measure, along with four Democratic senators.

"As I travel across Montana, Main Street businesses and lenders tell me that they need some regulatory relief if we want jobs in rural America," said Republican Sen. Jon Tester of Montana.

"We tried to fix too-big-to-fail and we created too-small-to-succeed," added another supporter of the measure, Democratic Sen. Heidi Heitkamp of North Dakota.

Under the bill, banks with less than \$100 billion in assets will be exempt from some of the stricter oversight immediately. Those with assets of \$100 billion to \$250 billion are presumed exempt after 18 months, with the Federal Reserve retaining authority to apply stricter requirements if appropriate.

The American Bankers Association urged Senate Majority Leader Mitch McConnell, R-Ky., to bring the bill to a vote on the floor as soon as possible, saying the bill will "open doors of opportunity for more creditworthy borrowers and businesses, and it will contribute to economic growth and job creation."

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SEC Aims to Advance Nominees for Audit Regulator

12/05/2017

Wall Street Journal

Dave Michaels

The Securities and Exchange Commission is preparing to overhaul the board of the country's premier audit watchdog, including replacing its chairman with a longtime Republican aide on Capitol Hill.

William Duhnke, a former Naval officer who has worked in the Senate since 1995, would replace James Doty as chairman of the Public Company Accounting Oversight Board. The board, a private regulator that answers to the SEC, regulates auditors who review the financial statements of companies listed on U.S. stock exchanges.

Seats on the PCAOB are among the most sought-after regulatory roles in Washington. Board members there earn about \$547,000 a year, while the chairman takes home more than \$672,000 annually.

SEC Chairman Jay Clayton has picked several members including Mr. Duhnke to join the PCAOB, according to people familiar with the matter. Mr. Clayton and the SEC's two other commissioners are likely to vote on the nominees in the next several weeks, the people said. The names of the other nominees couldn't be learned.

The near-wholesale replacement of the audit watchdog's board follows a period during which SEC officials sometimes publicly chastised the PCAOB for the slow pace of its rule-making. Mr. Doty, a

former SEC general counsel who took over the PCAOB in 2011, pushed rules that forced auditors to disclose more about what they do.

Mr. Doty's PCAOB sometimes riled up the nation's biggest business lobbying group. In 2015, the U.S. Chamber of Commerce complained the PCAOB's aggressive inspections of internal controls, the processes and systems that companies use to manage risk and prevent fraud, were driving up costs for public companies.

Fierce opposition from the industry and some members of Congress also prompted Mr. Doty to shelve an idea that would have required companies to periodically change their audit firms.

Mr. Duhnke, who began his career with the U.S. Navy and later became an aide to Sen. Richard Shelby (R., Ala.) could be more favorable to the Big Four—Ernst & Young LLP, Deloitte & Touche LLP, KPMG LLP and PricewaterhouseCoopers LLP—and could signal a change in priorities at the PCAOB, where Mr. Doty has sometimes clashed with the industry, the SEC and Congress.

Mr. Duhnke has served as staff director of three Senate committees: Intelligence, Banking and Rules. Mr. Shelby has served stints as chairman of each panel.

"Bill Duhnke has been a trusted adviser for nearly two decades in a number of roles," Mr. Shelby said. "As a respected manager and former staff director of the banking committee, he is well-versed on the issues at hand and would step into this leadership position with ease. I believe Bill would be an outstanding choice to lead the PCAOB."

Congress created the PCAOB in 2002 to be the independent regulator of accounting firms that audit public companies, following the Enron Corp. and WorldCom Inc. accounting scandals that significantly dented investor confidence in the audit profession. In an attempt to make the PCAOB more independent from the audit profession, Congress prohibited the hiring of a current auditor as its chairman.

The PCAOB reports to the SEC, which appoints the board's members and approves its budget and the rules it enacts.

The SEC solicited candidates to join the PCAOB in August, when the terms of Mr. Doty and another PCAOB member, Jeanette Franzel, had already expired. Since then, another board member, Steven Harris, has also served past his term. All three members have continued working at the PCAOB until the SEC announces the board's new composition.

Mr. Clayton told reporters on Monday that the SEC is "nearing the end of the process" of naming a new PCAOB chairman. An SEC spokesman declined on Tuesday to comment further.

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Senate panel overwhelmingly approves Powell as Fed chair

12/05/2017

American Banker

John Heitman

A Senate panel on Tuesday morning approved Federal Reserve Gov. Jerome Powell's nomination to chair the Fed beginning early next year, putting President Trump's pick one step closer to assuming one of the nation's most important executive offices.

The Senate Banking Committee approved Powell's nomination by a vote of 23-1, with Sen. Elizabeth Warren, D-Mass., casting the lone dissenting vote. Powell's nomination will go to the full Senate for confirmation, which could come by year's end.

Warren said she was voting against Powell's nomination because of his views on bank regulation, which she said needs to be strengthened rather than loosened. The problem of large banks being "too big to fail" remains unsolved, she said, despite Powell's indications to the contrary in his confirmation hearing.

"Banks of all sizes made record profits last year — giant banks are wallowing in profits — and yet an army of bank lobbyists and executives have managed to convince Gov. Powell that financial rules are strangling banks and need to be rolled back," Warren said. "There is no evidence to support this claim. Our financial rules for big banks need to be stronger, not weaker, and I have no faith that Gov. Powell will move the Fed in that direction."

Sen. John Kennedy, R-La., also said he had reservations about Powell's nomination owing to "some of the issues" Kennedy raised during Powell's confirmation hearing, though he did not specify. During that hearing, Kennedy accused Powell of participating in passing rules that regulated community banks "half to death" and pressed him on whether banks are still too big to fail.

"Before his vote comes to the floor, I look forward to discussing with him further some of the issues that I raised with him in our confirmation hearing," Kennedy said. "I do not want my vote today to indicate that I will be an automatic 'yes' on the floor. I'm not suggesting I'll be an automatic 'no' either, but some serious issues were raised ... and I look forward to exploring those further."

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Senate Panel Advances Powell's Nomination to Be Next Fed Chairman

12/05/2017

Wall Street Journal

Kate Davidson

The Senate Banking Committee voted Tuesday to advance the nomination of Federal Reserve governor Jerome Powell to be the next chairman of the U.S. central bank.

All but one of the panel's Democrats—Sen. Elizabeth Warren (D., Mass.)—joined Republicans to approve Mr. Powell's nomination by a 22-1 vote, suggesting he could face an easy confirmation when his nomination advances to the Senate floor for a full vote.

"His years of service on the board, at Treasury and in the private sector have equipped him with a lifetime of experience to draw upon when dealing with a myriad of difficult situations that the Fed could face," Chairman Mike Crapo (R., Idaho) said before the vote.

Ms. Warren, who voted to confirm Mr. Powell to the Fed board in 2014, voted against his nomination Tuesday, saying she was concerned about "troubling statements" he has made about easing regulations implemented in the wake of the financial crisis.

"I am very concerned that the Fed will systematically roll back postcrisis rules under governor Powell's leadership," she said. "That is a risk that our financial system cannot afford."

Sen. John Kennedy (R., La.), who pressed Mr. Powell during his confirmation hearing on whether some big banks are still too big to fail, voted to approve his nomination Tuesday but wouldn't commit to voting

for him on the Senate floor.

"Before his vote comes to the floor, I look forward to discussing with him further some of the issues that I raised with him in our confirmation hearing," Mr. Kennedy said. "I do not want my vote today to indicate that I will be an automatic yes on the floor. I'm not suggesting I'll be an automatic no either, but some serious issues were raised in confirmation."

Mr. Powell, who has served on the Fed board since 2012, is still expected to face a relatively smooth confirmation. His nomination now will advance to the full Senate, which has voted twice in recent years to confirm him as a Fed governor with broad bipartisan support. It isn't clear whether lawmakers will vote on his nomination before leaving Washington for the holidays.

Sen. Sherrod Brown (D., Ohio), the panel's top Democrat, said he would support Mr. Powell's nomination despite concerns about the direction the Trump administration is taking toward easing postcrisis rules, and called on Mr. Powell to resist those efforts. He also said he was disappointed President Donald Trump decided to replace Fed Chairwoman Janet Yellen, but added he expects Mr. Powell to continue the Fed's plans for gradual rate increases in the coming years.

"I believe the nomination of governor Powell provides our economy—since we couldn't have Chair Yellen—with the best chance of continued economic growth in spite of a Congress that keeps injecting uncertainty into the economy," Mr. Brown said.

If confirmed, Mr. Powell would succeed Ms. Yellen when her four-year term expires Feb. 3.

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Warren Casts Lone Vote Against Powell in Senate Committee

12/05/2017

Bloomberg Politics

Randy Woods

Federal Reserve Governor Jerome Powell, facing a Senate committee vote on his nomination to become the central bank's chairman, won strong bipartisan support that suggests he'll sail through the

full Senate.

The Senate Banking Committee voted 22-1 on Tuesday in favor of Powell's nomination. The lone no vote was from Senator Elizabeth Warren, a Democrat from Massachusetts, who voiced concern before the tally was taken that he'd weaken financial regulations.

President Donald Trump last month selected Powell to run the U.S. central bank and succeed Janet Yellen, whose term expires in February. Trump's predecessor, Barack Obama, appointed Powell to the Fed board in 2012 and re-nominated him in 2014 for a 14-year term.

Twenty-three Republicans -- including current Senate Banking Committee Chairman Michael Crapo -- voted against Powell in 2014 in the full Senate vote, but came up short against Democrats' then-majority. The chamber hasn't set a date for a vote on Powell's nomination, the final hurdle in the process.

"His judgment and expertise will be a continued asset to the board," Crapo said Tuesday.

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Senate Banking Committee votes to recommend Jerome Powell for confirmation as Federal Reserve chair

12/05/2017

CNBC

Jeff Cox

The Senate Banking Committee on Tuesday approved Fed Governor Jerome Powell to take over as chair of the central bank.

Powell's nomination now goes to the full Senate for a confirmation vote.

President Donald Trump nominated Powell in October to take over when current Chair Janet Yellen's

term expires in February. During his confirmation hearing in November, Powell, 64, said the current policy of gradually rising interest rates and a decrease in the Fed's balance sheet likely would continue to be appropriate.

While other Trump nominees have garnered substantial Democratic opposition, Powell sailed through. Only Sen. Elizabeth Warren [D-Massachusetts] voted against.

Warren grilled Powell on banking regulations as the nominee said he thought current banking regulations were "tough enough."

Powell differs from most other Fed chairs in that he is not an economist by training. He has extensive experience in investment banking and as a lawyer, and has served with the central bank since 2012.

Yellen has indicated she will leave the Fed after Powell is sworn in, though her term as governor does not end until 2024.

The vote comes as Trump has the opportunity to shape the Fed in a significant way. In addition to Yellen leaving, there are three other vacancies on the seven-member board of governors. Trump has nominated Carnegie Mellon economics professor Marvin Goodfriend to fill one of the positions.

One of those positions is vice chair, which Stanley Fischer exited in October. Mohamed El-Erian, chief economic advisor at Allianz, has been rumored as a nominee for that post.

In addition to those vacancies, New York Fed President William Dudley has said he also will retire in mid-2018. That position will be filled internally, and a search is ongoing.

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U.S. Senate panel backs Powell for Fed chief

12/05/2017

Reuters

Lindsay Dunsmuir

The U.S. Senate Banking Committee on Tuesday voted to approve Fed Governor Jerome Powell to lead the Federal Reserve, sending his nomination to the full Senate for a vote.

The committee advanced his nomination by a vote of 22-1. All Republicans on the panel backed him as did 10 of the 11 Democrats, with the exception of Senator Elizabeth Warren.

Powell, 64, was nominated by President Donald Trump last month to head the U.S. central bank. The lawyer and investment banker has served on the Fed's Board of Governors since 2012.

At his nomination hearing a week ago, Powell defended plans to potentially lighten regulation of the financial sector but skirted efforts by members of the banking committee to draw him into contentious debates on economic growth, immigration and productivity.

He is seen as a relatively uncontroversial pick to head up the world's most powerful central bank as his stance on monetary policy appears mostly aligned with current Fed Chair Janet Yellen.

When it meets next week, the Fed is widely expected to raise interest rates for the third time this year as part of a tightening cycle that began in late 2015.

Another three rate rises are seen for next year, according to the latest median forecast of the Fed's policymakers.

The U.S. economy is in its third longest period of expansion since World War Two and the unemployment rate is currently at 4.1 percent.

Policymakers next year will have to contend with the impact of tax cuts likely to be passed into law by the Republican-controlled Congress by the end of this year, which could result in a faster pace of monetary policy tightening.

Set against that are continuing worries about tepid inflation, which has prompted some policymakers to emphasize that interest rate increases should remain gradual.

Powell would be the first Fed chief since the late 1970s without an advanced degree in economics and if confirmed he will replace Yellen when her term expires on Feb. 3

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Cyber, big bank resolutions among top stability risks, watchdog agency says

12/05/2017

American Banker

John Heitman

Cybersecurity risks, challenges in large institution resolution planning and unforeseen changes in market structure are the most significant threats to the stability of the financial system, the Office of Financial Research said Tuesday.

In the agency's annual report to Congress, OFR Director Richard Berner — who announced his retirement from the agency last month — said that, while the financial system is overall safer this year due to ongoing progress in implementing post-crisis regulatory reforms, there are still areas that could be a source of acute stress that regulators have not fully addressed.

"Threats to financial stability are moderate," Berner said. "But underneath that assessment are changes in the balance between financial-system vulnerabilities and resilience."

The report said that the financial system is an "attractive target for cyber thieves" and other hackers because of the system's centrality in people's lives and its increasing reliance on information technology as a means of transacting business.

"A large scale cyberattack," the report warns, "could disrupt the operations of one or more financial companies and markets and spread through financial networks and operational connections to the entire system, threatening financial stability and the broader economy."

The report also said that tools developed after the crisis to aid in the resolution of failed financial institutions remain "works in progress," and that while much progress has been made and confidence in those tools is growing, "orderly resolution may still be difficult in some scenarios."

Resolving a global systemically important bank, for example, would still be a challenge, even with post-crisis tools like orderly liquidation authority and a reformed bankruptcy code, the report said.

Structural changes in the financial markets may also pose a threat to financial stability, the report said. If certain services lack substitutable alternatives, for example, it could pose a challenge if the remaining providers choose to get out of that business. By contrast, fragmentation of business activity across multiple carriers can also lead to reduced liquidity in any one carrier.

The report also noted that the ongoing transition of reference interest rates away from the London interbank offered rate to an alternative rate. While the "risks and costs" of using Libor — a reference rate that was systematically rigged by global banks for years, leading to multibillion-dollar settlements with the government — make the move "essential," the report said, the transition to a universally accepted alternative poses risks.

"Obtaining widespread market acceptance and reliance could take years," the report said.

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Ken Chenault's Parting Warning: Banks Made Big Error on Payments

12/05/2017

Bloomberg Markets

Jennifer Surane

Ken Chenault addressed his last investor conference Tuesday as head of American Express Co., delivering a stark warning: China's payments model is coming, and U.S. banks risk being sidelined.

Some of America's largest lenders made an epic mistake a decade ago when they cashed out their joint ownership of Visa Inc. and Mastercard Inc. through initial public offerings, according to Chenault. Banks that once controlled the plumbing of payments across the country will have a harder time fending off new entrants that offer consumers innovative ways to move and spend their money, blending finance with commerce, he said.

Breaking off the card networks "was one of the biggest strategic blunders of the last 20 years," said Chenault, 66, who will step down as chairman and chief executive officer in February. "They didn't understand what they were giving up, and they lost sight of where the puck was going. Along with yielding pricing power to the network, the banks also limited their access to data and merchant relationships at a critical time."

In China, payments are rapidly shifting from cash to apps and mobile devices, leapfrogging the traditional banking industry. Jack Ma's Alipay and Tencent Holdings Ltd.'s WeChat Pay handle 90 percent of those transactions, creating a vast e-commerce ecosystem. That position at the nexus of payments, commerce and other services is a "major advantage," Chenault said.

But a decade ago, lenders including JPMorgan Chase & Co., Citigroup Inc., Bank of America Corp., Wells Fargo & Co. and HSBC Holdings Plc broke off their jointly owned card networks. Mastercard conducted an initial-public offering in 2006, Visa in 2008. Both stocks have soared since.

"They gave it up on the cheap, and now the roles are totally reversed," Chenault said, calling it one of the most amazing business stories of the past 20 years. "An industry literally transferred wealth over to two associations. They were nonprofits. That's unbelievable."

To be sure, Chenault's indictment of banks was also a defense of his own firm's strategy. American Express deploys a so-called "closed-loop model," meaning it issues cards as a bank and operates the network that handles transactions.

It's important, he said, to bridge such functions and to offer additional services to differentiate your company and lure customers. "We can't be reduced to simply facilitating a payment," he said.

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Ex-CFPB Boss Cordray Running for Governor

12/06/2017

Wall Street Journal

Yuka Hayashi

Richard Cordray, the former chief of the Consumer Financial Protection Bureau, said he is running for governor of Ohio.

Mr. Cordray, 58 years old, said he is joining the Democratic race to succeed Republican Gov. John Kasich, who faces term limits and is stepping down in January. The announcement followed Mr. Cordray's resignation as CFPB director on Nov. 24.

Mr. Cordray, an appointee of former President Barack Obama, encountered criticism from congressional Republicans and officials in President Donald Trump's administration.

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Why the Fed, Baffled by Low Inflation, Is Ready to Raise Rates

12/06/2017

New York Times

Binyamin Appelbaum

The Federal Reserve is poised to raise its benchmark interest rate next week, at its final meeting of the year, as the economy continues to gain strength and the unemployment rate continues to fall. But it's not a straightforward decision.

The problem is inflation. Prices continue to rise more slowly than the Fed regards as healthy. This year is on a pace to be the sixth straight with inflation below the Fed's 2 percent target, a sign of continuing economic weakness. It also limits the Fed's ability to reduce borrowing costs during a future economic downturn.

This will be a key issue for the Fed board and, in particular, its next chairman to wrestle with. On Tuesday, Jerome H. Powell, President Trump's nominee to lead the Fed, moved closer to taking the top spot when the Senate Banking Committee approved his nomination, 22 to 1. His confirmation now moves to the full Senate for a vote, which has not yet been scheduled.

Most Fed officials, including Mr. Powell, a current member of the board, are ready to move on rates. While they don't completely understand why inflation is low, they are confident that it will rise as the economy continues to grow - as employers seeking workers are forced to offer higher wages. Other Fed officials want to wait to raise rates, saying they see evidence that the economy still needs help from the central bank. The Fed's benchmark rate is in a range between 1 percent and 1.25 percent, and they would like to keep it there until inflation gains strength.

The New York Times spoke with a pair of Fed officials, one on each side of the issue: Charles L. Evans, president of the Federal Reserve Bank of Chicago, and Robert S. Kaplan, president of the Federal Reserve Bank of Dallas.

The interviews were conducted last week; officials are not allowed to comment publicly on monetary policy in the week before a meeting of the Federal Open Market Committee.

Benchmark Rate CHARLES L. EVANS I've been looking at the data, and the data have not been strongly indicating that we should continue with a rate increase. I do worry that Inflation expectations have not yet moved up in a noticeable way that I think is on the path to being more consistent with 2 percent. I'm going to be listening to everybody, but I don't think that the call is obvious at this point.

ROBERT S. KAPLAN Whether we're at full employment, we'll know in hindsight, but I believe we're going to continue to take slack out of the labor market. I'm very aware that we're undershooting inflation, but my team believes we're going to get to 2 percent in the medium term. It may be slower and more uneven than people expect, but from a risk management point of view, I think it would be wise to take the next step. I'm being very careful in the way I'm saying it because I continue to believe that removal of accommodation should be done in a gradual and patient way. Inflation

MR. KAPLAN I am a strong believer that cyclical pressures are building and, as we continue to take slack out of the labor market, they'll continue to build. The issue is, there's a headwind in terms of inflation: technologyenabled disruption. What do I mean? Yes, of course, technology is replacing people, and that has been going on for a long time. Increasingly, though, consumers have more use of technology to shop for goods and services at lower prices - that's accelerating. And a third thing is the emergence of new models for selling goods, manufacturing goods or distributing goods.

The obvious ones you think of are Uber versus taxis, Amazon versus retail, Airbnb versus hotels. But every business is facing disruption. What we're finding is increasingly businesses lack pricing power. Even since I've been sitting in this seat, I talk to maybe 30 C.E.O.s a month, and some businesses that had pricing power two years ago are now telling me stories that they're in the middle of a price war.

MR. EVANS One of the things that make me nervous is that longerterm inflation expectations have moved down over the last few years. I think that makes it more challenging to get inflation up to 2 percent. I think everybody is mindful that you don't want inflation to get out of hand.

Having said that, we've now gotten to the point where low inflation as an objective is extremely credible. We've gained a lot of credibility, and I don't think markets or the public are expecting central bankers to let inflation get out of hand. I think we've got a bit of a reverse problem. We haven't demonstrated with our actions that 2 percent isn't a ceiling.

Wages MR. EVANS Any economist is going to ask, "Well, did you offer to pay more to get people to take those jobs?" And there's usually a smile, but that's not the first, second or third thought that comes to mind. They go out and recruit a little more heavily. There's an assumption that maybe there are some people on the sidelines who can come in. I'm not really sure that's the case.

They have been coming in over the last two years and that's been helpful, but that slack has largely been reduced. It does seem as if we keep on pushing on demand, they might push up wages and we might get more inflation. That was the case in the 70s.

MR. KAPLAN So companies are replacing people with technology. Older workers are getting bought out, and the work force is getting younger. And you've got to segment this by educational attainment. If you've got a college education and you're in a highskilled job, I actually think you've got pretty good negotiating capability for wages. If you've got a high school education or less, what I've been seeing - and this is more anecdotal, and we need to be doing more research on this - it is highly likely that your job is either getting restructured or eliminated and you don't have the educational background to easily move, unless you get retrained, which is an easy thing to say but a very hard thing to do.

Financial Markets MR. KAPLAN If we could call a timeout right now and ask if you see imbalances, I've said that they're manageable right now. But I do know that it pays to monitor these things very carefully at this stage in the cycle.

All I'm pointing out is that we need to be on our toes. I don't see overheating, but I think as we continue to take slack out of the labor market, we could well see imbalances build.

MR. EVANS I do take seriously that if we have overly accommodative policy - even in an attempt to get inflation up to our objective - then we're somehow providing the means for the financial sector to lever up a bit, particularly if we don't have the right prudential standards in place.

It just seems to me that it would be much better if we used our other tools, supervision, that would allow our monetary policy tools to address our inflation and employment goals.

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GAO effectively scraps CFPB auto lending guidance

12/05/2017

American Banker

Rob Blackwell

The Consumer Financial Protection Bureau's 2013 guidance putting indirect auto lenders on the hook for unintentional discrimination by their partner dealers should have been subject to Congressional review and must be resent by the agency, the Government Accountability Office said Tuesday.

In a letter to Sen. Pat Toomey, R-Pa., the agency said the controversial bulletin "is a general statement of policy and a rule under the" Congressional Review Act.

The decision effectively scraps the auto lending guidance because it was not properly sent to Congress for review – and therefore it can no longer be used by agency examiners until that occurs.

"GAO's decision makes clear that the CFPB's back-door effort to regulate auto loans, which was based on a dubious legal justification, did not comply with the Congressional Review Act," said Toomey in a press release. "GAO's decision is an important reminder that agencies have a responsibility to live up to their obligations under the law. When they don't, Congress should hold them accountable. I intend to do everything in my power to repeal this ill-conceived rule using the Congressional Review Act."

But a full-fledged Congressional Review Act push by Toomey probably won't be necessary. The GAO's decision remands the guidance back to the CFPB, which must resend it for lawmakers' review.

It is highly unlikely that the CFPB will do so now that it is under the control of CFPB Acting Director Mick Mulvaney, given Republicans' long-standing objections to the guidance.

The GAO dismissed arguments by CFPB that the guidance did not constitute rulemaking because it was not legally binding. But the GAO said "general statements of policy," which aren't legally binding, still should be subject to Congressional Review Act.

"We decided that the Interagency Guidance fell squarely within CRA as an agency action that constituted a 'statement of general . . . applicability and future effect designed to implement, interpret or prescribe . . . policy,'" the GAO said. "Similarly, the CFPB Bulletin at issue here is a statement of general applicability, since it applies to all indirect auto lenders; it has future effect; and it is designed to prescribe the Bureau's policy in enforcing fair lending laws."

From the moment it came out several years ago, the guidance was controversial. Auto lenders argued that they shouldn't be penalized for unintentional discrimination by partner dealers against minority customers under so-called "disparate impact" theory.

They also objected to the CFPB's methodology for determining discrimination. Because borrowers are not required to put their race or ethnicity on an auto loan application, the CFPB had to use regressive analysis to effectively guesstimate which borrowers were minorities.

Lawmakers have tried to no avail to scrap the guidance. The House passed a bill in 2015 that would have eliminated the guidance. But the Senate did not take up the issue.

How much practical impact the GAO's ruling will have is unclear. Under Mulvaney, it was highly unlikely that he would have allowed the guidance to be used against indirect auto lenders. Indeed, even under former CFPB Director Richard Cordray, the agency's pursuit of auto lenders has waned.

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[Banking Industry News \(Full-Text\)](#)

Time to address banks' skepticism about data sharing

12/05/2017

American Banker

Penny Crosman

When bankers complain about the security risks of sharing data with fintechs, they get an eye roll. Such complaints tend to be regarded as a cover for an ulterior motive: unwillingness to give customer details to competitors.



But when Chair Sheila Bair, a former chairman of the Federal Deposit Insurance Corp., recently warned of the security risks of sharing customer data with third parties, it made some people stop and think.

"Sheila Bair has proven herself to be an honest broker," said Harry Sandick, a partner with the law firm Patterson Belknap Webb & Tyler who specializes in white-collar criminal defense and investigations. "She was a tough regulator, she was one of the people in the aftermath of the financial crisis who really dug in, along with Elizabeth Warren and Neil Barofsky, so if she thinks there are concerns here, there probably are concerns here," said Sandick, a former assistant U.S. attorney for the Southern District of New York.

Regulated banks have to provide many layers of security that are audited by government agencies, Bair wrote in a recent opinion piece in the Financial Times. "But as the Equifax data breach highlights, other entities, such as credit reporting agencies, reside outside this system," she said.

"The protection they offer is only as good as their management's vigilance, and that is often lacking," she said. "Given the relative success of bank cyber regulation, why would we want to provide new points of penetration?"

Sandick said that as a consumer, he had long focused on data sharing's benefits: access to useful products.

"But at the same time I want to make sure my privacy is protected, both in terms of the bank not sharing the information without my consent and also in terms of my information being protected when I choose to share it," he said. "I don't think we want to have a situation where a bank has to share my information with any third party that maybe will be careless about it."

He said he sees merit in the worry that storing customer data in more places creates fresh opportunities for that data to be compromised through human error or hacker activity.

"The more people that have access to data, the more people that can be responsible for a compromise of the data," Sandick said. "As Benjamin Franklin said, three people can keep a secret if two of them are dead."

But there is also an argument to be made that no institution has perfect data security, including banks.

"I generally agree with the direction of [Bair's] arguments — that we have not really seen the downsides of open banking yet," said Dan Kimerling, co-founder of the venture capital firm Deciens Capital and former head of application programming interface banking, open platform and research and development at Silicon Valley Bank. "But what I don't agree with is the premise that banks are secure."

Some, including Kathryn Petralia, chief operating officer of the online lender Kabbage and a spokeswoman for the Consumer Financial Data Rights group, think fintechs and data aggregators should be held to the same security standards as banks.

"Anybody handling any kind of [personally identifiable information], anything as simple as their email address, data that's transactional, finance-related, health care-related, or personal should be held to that standard," she said.

Kabbage encrypts customer data at rest and in transit, she said. Access to customer data is closely monitored and physical access to computers is tightly controlled. The company even has cameras in its offices recording all human activity.

"Tracking and being aware of that is really important because so many of the breaches that happen are caused by humans," Petralia said.

Kabbage also uses third-party penetration testing services to see if its systems are hackable. "Those types of tools and services are really valuable, but you have to be prepared for answers you don't like much," she observed.

Higher bar for data aggregators?

Bair also pointed out in her article that account data aggregators can amass large databases of transaction data, "making them a juicy target for hackers."

This has also been a refrain applied to credit bureaus — many in the fintech industry believe it's time for a distributed, perhaps blockchain-based, method of verifying identity and computing credit scores.

Data aggregators have a unique security challenge because they are gathering bank customers' online banking credentials, Petralia said.

"One of the reasons data aggregators are perceived as being riskier is because of this credentials

process," Petralia said. "Credentials are broken." New methods of protecting access to account information, such as biometrics, could help mitigate this risk, she said.

Bair further warned that sharing customer account data with third parties hampers banks' efforts to detect fraud because "customers may no longer interact with banks directly. No longer able to see and understand how customers are using their accounts, they will be hard put to identify red flags."

It is true that when fintechs and data aggregators log in to customers' accounts, they can obscure banks' efforts to verify that the incoming IP addresses — numeric designations that identify their locations on the internet — belong to the customers who own the account.

But Petralia pointed out that banks know the data aggregators' and fintechs' IP addresses by now, so they should be able to adjust their fraud monitoring tools accordingly. And there are many other ways to analyze transactions for signs of fraud besides incoming IP address, she said.

Fintechs' limited resources

Another issue is, who will bear the financial burden when a data breach occurs?

Bair noted in her article that regulators in the U.K. and EU say they will make third-party providers financially responsible for unauthorized withdrawals directed by their systems. Here in the U.S., the Consumer Financial Protection Bureau has said much the same, that third parties should be liable for any fraud or security lapse that happens on their watch.

But Bair went on to wonder whether fintechs and data aggregators will have the resources to pay for a security breach or fraud.

"I do think that's an important concern," Sandick said. "It would be unfair for banks to be compelled by law to make certain information available to third parties, then punished if the third parties lose track of or expose the information and then a lawyer says, 'I'm just going to sue everyone.' It seems like the accountability should rest on the people who didn't have the proper gated security in place, not on others."

Petralia described this worry as legitimate. "It's unfair to expect banks to bear the burden of data breaches that take place with their customers' data that lives somewhere else," she said. "Any entity that is gathering this data on behalf of customers should be in a financial position to be able to make customers whole if there's a breach."

As for small fintechs that do not have a lot of money, "there seems to be an insurance product for everything," Petralia said. "I think the solution is a combination of creative insurance and decent balance sheets. I don't think because a company is a startup or serves an underserved population, they get a pass. Controlling, accessing and storing customer data is not for the faint of heart."

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JPMorgan, Bank of America Say Trading Revenue to Fall in Fourth Quarter

12/05/2017

Wall Street Journal

Emily Glazer and Rachel Louise Ensign

Bank executives are flagging another tough quarter for trading as quiet markets again hurt a key Wall Street business.

Bank of America Corp. Chief Executive Brian Moynihan said at a banking conference in New York on Tuesday that trading revenue is likely to fall about 15% in the fourth quarter compared with the year-earlier period.

At the conference, JPMorgan JPM -1.15% Chase & Co. finance chief Marianne Lake also said trading revenue is expected to fall 15% in the quarter.

Ms. Lake said there are "not many catalysts," and volatility remains "low across the spectrum." Her remarks encapsulate what has been a tough year for banks. Trading revenue has consistently declined versus the prior-year period, with the biggest falloff mostly occurring in the area of fixed income, commodities and currencies.

Trading revenue has dipped 4.4% for the five large banks with major investment-banking operations, as a group, in the first three quarters of the year, compared with the year-earlier period.

That is largely because volatility remains near lows, despite the constant drumbeat of political and

geopolitical developments that typically would spur market activity.

One big drag on volatility: Although the Federal Reserve has been raising short-term interest rates, longer-term rates continue at superlow levels in many countries, including the U.S., and inflation continues to remain subdued.

Against that backdrop, and without specific catalysts in sight that might produce big changes in rates, many investors are sitting on their hands.

To be sure, JPMorgan has still had relatively good performance in fixed income, currencies and commodities. Ms. Lake said she is "very, very confident" the bank will maintain its market share, though she didn't specify figures.

She added that the bank is making progress steadily on the equities side of the trading business, pointing to growth in prime and cash equities, among other areas.

Merger and capital markets activity also has been relatively strong, which should continue to offset the trading performance.

Mr. Moynihan said that investment banking was strong in the quarter and that fees in the segment were on track to rise "midsingle digits" in the quarter from the year earlier.

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Reducing payments does more than reducing principal, study shows

12/05/2017

American Banker

Bonnie Sinnock

Cutting payments helps stave off default, but principal reduction on underwater loans and lower consumer debt levels are less effective, according to the JPMorgan Chase Institute's new study of post-

crisis modifications.

"The most important finding that also would come as a surprise to a lot of people is that it's not really about the wealth effect and principal reductions for underwater borrowers; it's really about payment relief," said Diana Farrell, president and CEO of the institute.

A 10% payment reduction resulted in a 22% reduction in the default rate, according to the study.

Mods that reduced principal on underwater loans, but did not fully restore equity, did not appear to have much bearing on whether or not a borrower defaulted. Neither did the amount of nonmortgage debt consumers had.

"Adding to the principal reduction when a loan was underwater didn't change the foreclosure picture," Farrell said.

Few borrowers have access to a resource like liquid savings, but in cases where it is available it does appear effective in staving off default, said Farrell. The findings support the effectiveness of mortgage policies that help borrowers create that kind of buffer, she said.

The study reflects anonymized data from 450,000 JPMorgan Chase customers who between July 2009 and June 2015 received first-time mortgage relief through the Home Affordable Modification Program, from a proprietary Chase modification or from a government-sponsored enterprise mod.

The use of principal reduction to make a loan less severely underwater proved largely ineffective in conjunction with these types of modifications. But it could still be useful in other situations, Farrell said.

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[Economic News \(Full-Text\)](#)

[Regulatory angst curbs investor appetite for European banks](#)

12/05/2017

Reuters

Danilo Masoni

Uncertainty about the timing and scope of regulatory efforts to strengthen Europe's financial system is adding to investor caution about increasing exposure to European over U.S. banks, even as the economy and earnings improve.

European bank stocks, overshadowed by some 800 billion euros of soured loans from the financial crisis, rallied in the first half of the year after the election of French President Emmanuel Macron removed an element of political risk and data showed the region's economy recovering at a stronger-than-expected pace.

But the rally has faltered, partly over concerns that new rules being drawn up separately in Frankfurt and Basel could spark a fresh wave of cash calls and jeopardize dividends.

"Regulation is the true obstacle. If it were about the economy, investors would be buying banks," said Andrea Filtri, London-based banking analyst at Italy's Mediobanca Securities.

Top of mind for many investors is the work of the European Central Bank, which proposed in October that banks set aside more cash to cover bad loans, a measure that would force weak lenders to ask shareholders to provide the cash to plug losses.

Lawmakers in Italy said the rules would thwart lending to small and medium-sized firms and might even choke out growth. Following Italy's lead, some European lawmakers also said the central bank was reaching beyond its mandate.

The new rules were due to kick in on Jan. 1, 2018, but top ECB supervisor Daniele Nouy said last week a few more months were needed because of the intense pushback. Sources have told Reuters the delay could last as long as a year.

Adding to the uncertainty is what will emerge from the Basel Committee of global regulators working to complete post-financial crisis capital requirements.

Citi Research analysts estimated in a report that in a worst case scenario, the "Basel IV" rules could turn a capital surplus of 64 billion euros (\$76 billion) at European banks into a 162 billion-euro deficit.

Basel IV was supposed to have been agreed by the end of last year but a row between France and the United States over how high to set the capital demands has dragged out the process. France's central bank governor said a deal may be reached as soon as this Thursday.

"We are in the middle of a war and when overseas investors see a conflict they just prefer to stay out of it," said Filtri.

Portfolio managers like Luiz Sauerbronn at Brandes Investment Partners are confining their European banking holdings to well-capitalized companies until the picture clears.

"It's very uncertain: we don't know what regulators are thinking and if they're making a decision yet," said Sauerbronn, who helps manage \$30 billion at the San Diego, Calif.-based investment advisory firm.

U.S. SKIES ARE CLEAR

While European lenders brace for tougher regulatory requirements, the Federal Reserve is signaling lighter rules and has given U.S. banks approval to use extra capital to reward shareholders.

The ECB has also signaled it will wait far longer than the Fed to raise interest rates, depriving European banks of potential earnings on loans.

Those factors have contributed to a surge of net cumulative flows into U.S. financial funds this year to a high of more than \$12 billion in November, according to Boston-based fund tracker EPFR Global. While flows into Europe have also risen in 2017, they plateaued before reaching \$4 billion in November, it said.

European bank stocks .SX7P, which like other cyclical sectors are sensitive to the economy, are down 5 percent from their May peak, twice as much the broader market's decline . U.S. banks .SPXBK have gained 17 percent over the same period.

European banks remain thinly capitalized compared with their U.S. brethren because regulatory scrutiny in the United States has historically been more stringent than in Europe, leading investors like Sauerbronn to see U.S. banks as safer.

The ECB's latest efforts are centered on Italian banks which hold nearly a third of the euro zone's non-performing loans.

NPLs at Italian banks are worth 12 percent of their assets, data from the European Banking Authority shows, against a European Union average of 4.5 percent.

"The direction of travel is clear: the ECB is very focused on getting banks to have a non-performing loans exposure of single-digit percentages within a reasonable time frame," said Matthew Williams, analyst for global financials at Carmignac, which manages 60 billion euros.

An extra 20-25 billion euros of capital would be needed to bring Italy's soured debt exposure to within the ECB's aim, he said. "That affects how we think of investment opportunities: we're not convinced that it's the right time to be involved in smaller Italian banks."

Basel IV will govern how banks internally calculate risk, which determines how much cash they set aside, and aim to bring European banks up to U.S. standards.

The Basel IV announcement is unlikely to result in any bank having to tap investors for cash because implementation is expected to be very gradual, however.

Williams at Carmignac reckons the immediate market reaction could be negative, as it was unlikely that many banks would be able to pay special dividends once Basel IV is agreed.

But the decision itself could trigger relief, analysts say.

"Putting a line under the Basel IV uncertainty would be a positive for the sector which is plagued by continued regulatory uncertainty to this day," Filtri wrote in a note for clients.

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U.K. Banks Aren't Telling Regulators About All Cyber Attacks

12/05/2017

Bloomberg Markets

Suzi Ring

U.K. banks still aren't telling regulators about all the cyber attacks on the financial services industry despite a ten-fold increase in reports to the Financial Conduct Authority over the last four years.

"Our suspicion is that there's currently a material under-reporting of successful cyber attacks," Megan Butler, the FCA's director of supervision, said in a speech Tuesday, according to a copy of her remarks on the regulator's website. "The number of breaches relayed back to us looks modest when you set it against the number of attacks on the industry."

The number of material attacks reported by firms to the FCA has grown to 49 this year from five in 2014, as hacks become one of the biggest threats to the safety of the financial services industry. The type of hacks is also increasingly concerning for regulators and firms with ransomware making up 17 percent of attacks reported to the regulator, according to Butler.

The FCA opened an investigation in October into the hack of credit reporting company Equifax Ltd. that saw personal data stolen from at least 143 million people. Outside of the FCA's supervision, Uber Technologies Inc. paid hackers \$100,000 to delete data taken from 2.7 million U.K. customers in a 2016 security breach.

Butler emphasized the need for incidents to be reported to the regulator as they're happening. She told the ICI global capital markets conference in London that the FCA had recently spent time with a number of U.S. agencies looking at how they could better coordinate cyber supervision against the global threat.

One of the challenges facing firms and regulators is the growing use of cryptocurrencies such as bitcoin in cyber attacks.

Rob Wainwright, the director of Europol, said at a London conference last week that cryptocurrencies were a "great enabler for ransomware" because they allow people to act anonymously. He also highlighted the problem of cyber crime and fraud divisions in banks working separately when common actors could be better pursued together.

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Italy's bad loan scheme poised to deliver after long gestation

12/05/2017

Reuters

Valentina Za

A complex scheme Italy conceived to help the country's banks offload their bad loans seems ready at last to deliver on its potential, as the lenders fight their way through a mass of practical problems.

The "GACS" state guarantee scheme, aimed at easing a major concern hanging over the Italian economy, has had a long gestation. European authorities approved the plan almost two years ago, and one senior banker has compared the drawn-out task of preparing debt sales under its rules with childbirth.

"The GACS is like a baby, it takes nine months," the head of bad loans at Banco BPM, Edoardo Ginevra, said in May.

BPM, Italy's third-largest bank, has started work on a 3.5 billion euro GACS sale to hit the market in 2018 and hopes are high that Italian lenders overall can use the scheme to deal with around 10 times that amount in the coming year.

JP Morgan, which together with Mediobanca advised the Treasury on GACS, has predicted the scheme will help Italian banks to sell 30-40 billion euros (\$36-\$47 billion) in bad debts in the next 12 months.

So far, only three sales totaling 2.8 billion euros have been struck in the 15 months since Italy completed the GACS framework in August 2016, of which 860 million carries state guarantees.

Italy still has a long way to go. It accounts for a quarter of the euro zone's \$1 trillion pile of bad debts left over from the debt crisis. Pressure for action is intense, with the European Central Bank still planning to force euro zone banks to set aside more money against newly soured loans, despite its openness to delaying the rules' implementation.

A major concern for regulators is that the bad debt problem compounds the weakness of Italian banks, which are major funders of the country's public debt, one of the world's largest.

Fellow euro zone economy Spain rescued its troubled banks with European help in 2012 while Greece, Ireland, Portugal and Cyprus have tackled their bad debt mountains after taking sovereign bailout programs.

In Italy the process has been much more drawn out, so rising GACS-backed sales are part of the push to force lenders to clean up their balance sheets while keeping losses to a minimum.

Banca Popolare di Bari, an unlisted southern Italian bank which was the first to tap the state guarantee, said on Tuesday it had sold another 320 million euros in bad loans to a securitization vehicle and would request the GACS guarantee for the deal.

SIGNIFICANT BOOST

A significant boost will come from state-owned Monte dei Paschi di Siena (BMPS.MI), which plans to use the scheme for a 26 billion euro bad loan securitization that the Tuscan lender must carry out under a restructuring plan agreed as part of its bailout. This pools bad loans and repackages them into tranches of debt of varying quality.

At the heart of the GACS program is a state guarantee that protects buyers of the safest - or most senior - tranche in the securitization. That lowers its risk to that of a government bond, cutting the securitization vehicle's financing costs.

Rome took so long to act that new stricter EU regulations now apply to such guarantees, restricting its freedom of movement. This has included the possibility of forcing small bank bondholders to suffer losses, an idea which has provoked strong political opposition.

"Given existing rules and the way the EU applies them, all that Italy is left with are half-measures," said Andrea Resti, an associate professor at Milan's Bocconi University,

"But it's becoming quite proficient at using them and the GACS is probably one of the best ones," Resti, who advises the European parliament on banking supervision, told Reuters.

The GACS scheme has revived securitized debt sales and widened the range of potential buyers of Italian bad loans to include smaller U.S. hedge funds, a person familiar with the matter said.

Such investors would not consider an outright purchase because they would not be able to oversee the process of recovering the loans. In a GACS securitization, this job is left to an independent servicer.

The range of potential investors is expected to grow as banks, including UniCredit, plan to start selling the GACS-backed notes which they have retained from the three deals completed so far -- by Popolare di Bari, Creval and Carige. Buyers of such tranches would typically comprise insurers or pension funds.

ARMIES OF PEOPLE

Like any securitization, the GACS scheme is complex and those involved in its execution warn privately that banks would have to employ "armies of people" to speed up the review of loan data.

Patchy loan data has proved a huge problem for Italian banks which are digital laggards and are now being forced to whip into shape data contained in thousands of paper documents scattered across their branches.

Missing data dent the value of bad loan portfolios. In a GACS deal, good data is needed to achieve the desired size of the cheaply-financed senior tranche and maximize the benefit of the state guarantee.

In rating the debt UniCredit plans to issue under a 5.4 billion euro GACS securitization deal, Moody's said it could consider only 12,633 of the 26,913 properties backing the loans because information such as valuation or mortgage size were missing.

UniCredit still managed to get an 'A2' rating on the most senior tranche, the highest assigned so far in a GACS securitization.

"The question banks most frequently asked us when the GACS was introduced was: how much is a deal going to cost?" said Marco Spano, head of financial institutions at Mediobanca's debt capital markets team.

"At the time it was impossible to say, it all hinges on the quality of the loans and it takes months of work to check what really is in a portfolio." (\$1 = 0.8451 euros)

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Greek banks beat target in push to shrink bad loan mountain- cenbank

12/05/2017

Reuters

George Georgopoulos

Greek banks made further progress during the fourth quarter in reducing their exposure to doubtful and non-performing loans, central bank data showed on Tuesday.

At the end of December, so-called non-performing exposures (NPEs) - the biggest challenge facing the sector - had fallen by one billion euros to 104.8 billion euros, or 50 percent of banks' overall loan book, the data showed.

This compares with a target of 50.5 percent, or 105.8 billion euros.

NPEs comprise non-performing loans (NPLs) - past credit due for more than 90 days - and restructured loans likely to turn sour. Cutting them would free up more capital to fund productive sectors of the economy, which is slowly recovering.

Greek lenders had NPEs totalling 14.5 billion euros (\$16.32 billion), or 5.5 percent of loans, when the global financial crisis began in 2008.

While NPEs soared to 106.9 billion, or 50.5 percent of loans, at the end of June last year, banks have agreed with European Central Bank regulators to shrink them by 38 percent to 66.7 billion by end-2019, meaning the NPE ratio will fall to 33.9 percent of their loan books.

The agreed targets are back-loaded, meaning most of the reduction will take place next year and in 2019, based on the plan.

Despite the reduction in the fourth quarter, NPEs encompassing mortgages, corporate and consumer loan portfolios remain high across the board, the Bank of Greece said.

While default rates have slowed, it said, they remain higher than the pace of restoring loans back to performing status (cure rate), particularly in the business loan segment.

The main driver behind the NPE reduction has been write-offs, while liquidations, collections and loan sales contributed to a lesser extent, the central bank said.

Tuesday's data showed banks also beat the reduction target on NPLs, with the ratio coming in at 36.2 percent, or 75.9 billion euros, at the end of December versus a targeted 36.4 percent.

Greece's four major banks - Piraeus, National, Eurobank and Alpha - and three less systemic banks submit data on nine operational targets.

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[Opinions/Blogs \(Full-Text\)](#)

Regulators say they promote innovation, but the opposite is true

12/05/2017

American Banker

Eric Grover

The economist Art Laffer famously drew a graph on a napkin illustrating that beyond a certain point, increasing tax rates lead to reduced tax revenue. Similarly, there is a Laffer curve of financial innovation. More regulation, more regulators and more regulatory uncertainty increase the cost of and inhibit financial services and payments innovation.

Regulators in the United Kingdom, Australia, Singapore and the U.S. have acknowledged this in

establishing “sandboxes” that aim to allow promising fintech ideas to develop without the distracting hurdle of heavy enforcement. But despite some success stories, too many regulators merely say they are promoting innovation. Rather, they are making — not enforcing — new laws as they go.

If strict law enforcement hurts the payments industry and isn’t in the public interest, the law should be changed or eliminated, not selectively enforced. That principle has been applied to a limited extent in some jurisdictions.

For example, the U.K. is already Europe’s most favorable jurisdiction for financial services. Its Financial Conduct Authority permits fintechs it rates promising to test their products in a sandbox for six months. The FCA ran 18 fintech firms through the first cohort of its sandbox, and 24 fintechs through its second cohort. The FCA says it does not ease regulations that would put consumers at risk. If innovation-inhibiting regulation can be safely waived, why keep it?

The Australian Securities and Investments Commission authorizes approved ventures to experiment without a financial services or credit license for up to 12 months and may, as it sees fit, relax additional product-licensing requirements and laws it enforces.

In the same vein, the Monetary Authority of Singapore eases the regulatory burden for approved fintechs for short durations, aiming to make Singapore Asia’s fintech capital. MAS also attempts to direct financial institutions’ capital allocation by subsidizing up to 50% of approved artificial-intelligence and data-analytics projects.

But in the U.S., the decidedly anti-innovation CFPB has “Project Catalyst.” While the program is touted as fostering innovation, in five years it has issued only one “no-action” letter — to Upstart, which uses AI and machine learning to price and approve credit. The letter addresses Equal Credit Opportunity Act enforcement.

Given the CFPB’s expansive ECOA enforcement, and pattern of lawless prosecution of ECOA-related and other activities it does not approve of, Upstart’s need for the agency’s blessing was understandable. Besides, the CFPB has appeared to believe that credit riskiness and approvals must be identical across all races and ethnicities. But, drivers don’t need letters from police to know they’re within the speed limit. Lenders shouldn’t need letters from their overseers to know they’re operating within the law.

Heavily regulated banking at its core hasn’t been innovative in more than a century. It wasn’t always this way.

The golden age of banking innovation was in Scotland, from the tail end of the 17th century through the first half of the 19th century. Lightly regulated Scottish banks invented branch banking, interest-bearing

savings accounts, overdrafts, lines of credit, and two-sided and multicolor banknotes.

The most momentous retail-banking innovation in the 20th century was general-purpose payment networks. While bank-owned, they were spearheaded outside banks proper, in barely regulated whitespace, by visionaries such as Visa's founding CEO Dee Hock.

No special regulation governed credit card rewards, cobranding and affinity marketing programs. There was no CFPB when Blockbuster and First Data pioneered prepaid cards.

In recent years, payments innovation has occurred only around the system's edge, in the least regulated domains, such as merchant acquiring. Square scaled and socialized mobile acceptance. The Dutch unicorn Adyen built a single, end-to-end, fully integrated, global acceptance platform.

In China, initially, regulators took a hands-off approach toward nonbank e-commerce payment systems, implicitly endorsing and enabling mobile-payments behemoths Alipay and WeChat Pay to develop and scale.

But in sub-Saharan Africa, banks are heavily regulated and weak. Path-breaking mobile-payment systems M-Pesa, Orange Money and EcoCash developed outside the banking system.

In the European Union, regulators have had too much of a heavy hand when it comes to directing payments innovation. The EU's first Payment Services Directive — known as PSD1 — created a licensing structure for nonbank payments providers competing across the Eurozone. The revised directive, known as PSD2, gives licensed nonbanks the right to initiate free payments against consumers' current accounts and harvest transaction data. But PSD2 is highly prescriptive, mandating strong two-factor authentication for electronic retail payments, rather than permitting parties at risk in the market to determine optimal risk management.

The European Central Bank licenses "fintech banks" defined as having "a business model in which the production and delivery of banking products and services are based on technology-enabled innovation." Lo, all banks rely on technology. Having a separate license for those considered innovative is too clever by a half. Why not have a regulatory regime that doesn't inhibit banks, period, from trying to innovate?

Policymakers should heed World Bank Chief Economist Paul Romer's counsel that, "Simple rules that are easy to follow are a sign that a government treats its citizens with respect. They yield direct economic benefits — more entrepreneurship; more market opportunities for women; more adherence to the rule of law."

More regulation and regulators deter new entrants and innovation from existing players. Ideally, legislatures, not regulators, will ensure that rules are conducive to innovation — that they're few, simple, clear and impartially enforced.

Eric Grover is principal at Intrepid Ventures, a corporate development and strategy consultancy.

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Wall Street got almost everything on its wish list in Republicans' tax package

12/06/2017

Washington Post

Tory Newmyer

Giant banks narrowly averted a disaster in the Senate tax bill that passed over the weekend. A provision in the package aimed at discouraging companies from minimizing their tax burden by shipping income abroad also roped in derivative payments, several industry sources working on the issue said. The financial contracts make up a multitrillion-dollar daily global market, and multinational companies use them to hedge against risks from, say, currency fluctuations.

The bill slapped a 10 percent levy on them - prompting banks to howl that the payments don't deserve to be taxed, since they don't function as a tax dodge.

Industry leaders pressed the case to Senate Finance Committee members last month, noting in a letter to Chairman Orrin G. Hatch (R-Utah) and top Democrat Ron Wyden (Ore.) that a single bank can have several hundred thousand such transactions going at once, with their total value reaching "into the trillions of dollars, a significant portion of which would likely be subject to this punitive tax."

Committee Republicans added a carve-out for derivatives to their package late last week, sources working on the matter said. "It certainly was not our intent to sweep in trillions of dollars in transactions that net each other out," one GOP aide said.

The change was one of several that financial-services interests from Wall Street and beyond managed to secure in the Senate proposal, these industry officials said. And more than anything, banks stand to

benefit from the slashing of the corporate rate from 35 percent to 20 percent, considering the high effective rate they pay under the current code.

Investors noticed: Big- bank stocks surged Monday on enthusiasm for the bill. Financial interests didn't get everything they wanted from the tax rewrites. Both bills place limits on the deductibility of interest payments on debt, a key break for the industry; banks failed to zero out the federal income tax exemption enjoyed by credit unions; and banks lost their write-off for insurance premiums they pay the FDIC.

Still, the news was mostly positive. Although the derivatives carve-out was aimed at heading off a disruption that the bill's authors never intended, other protections shielded financiers from tougher treatment they expected to face under a rewritten code.

Take the windfall that investment fund managers reap on successful bets. It's taxed at the 20 percent rate for capital gains, plus a 3.8 percent Affordable Care Act surcharge, meaning those ultrawealthy investors pay only a small fraction of what they would owe if earnings were treated as ordinary income.

President Trump promised on the campaign trail to end the break. Neither of the bills produced by the House or Senate does.

Here's National Journal's Casey Wooten: "The Senate bill, like its House counterpart passed earlier this month, contains a provision that would extend the holding period for investments to qualify for the carried-interest tax break, a move some analysts say would be ineffective and a far cry from the administration's calls to fully eliminate the break.... "The change in the tax bills would require that any asset be held for three years or longer before a taxpayer could claim the carried-interest provision.

The current holding period is one year. House Ways and Means Committee Chairman Kevin Brady said earlier this month that the provision would ensure that hedge funds don't benefit from the break, leaving it only to long-term real-estate partnerships.

"But some analysts say the provision won't have much of an impact on those using the break. " 'That's not going to have any effect on carried interest,' said Robert Willens, a New York-based tax expert whose clients include hedge funds and private-equity firms. 'The private-equity partners who benefit most from carried interest are not going to be penalized on account of that increase in the holding period because they inevitably hold their investment for longer than three years already.'"

Financial-services interests benefit from other gifts of omission in the tax bills. The big banks were on guard against the revival of a major tax that thenHouse Ways and Means Committee Chairman Dave Camp (R-Mich.) had in his 2014 proposal for overhauling the code. It would have raised an estimated \$86 billion over a decade by levying a tax on the consolidated assets of those firms with more than

\$500 billion. But it was never seriously discussed this year. And mortgage servicers scored a win, thanks to Sen. Mike Rounds (R-S.D.).

The Wall Street Journal's Kate Davidson and Joshua Jamerson report: "An amendment from Sen. Mike Rounds (R., S.D.) would exempt mortgage servicers from a potentially costly provision in the bill that would have them pay taxes upfront on projected income they receive over the life of a mortgage.

Current law says lenders can pay taxes as cash comes in - that is, as people make their monthly mortgage payments.

"The Mortgage Bankers Association, whose members include JPMorgan Chase and Quicken Loans but also smaller lenders, fought for keeping the status quo. It was a win for an industry that saw big losses from other provisions, including changes to mortgage-interest deduction rules and the standard deduction that filers take."

Not bad for an industry both major party candidates used as a boogeyman in last year's presidential election. And, indeed, Democrats are rallying to make the case that the bill exemplifies the hollowness of Trump's populist campaign pledges.

As Sen. Sherrod Brown (D-Ohio) told my colleagues over the weekend, "The public by Election Day will see how this Republican majority is wholly owned by Wall Street on every issue and the administration increasingly resembles a retreat for Goldman Sachs executives."

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Last Modified: Wed Dec 06 11:58:44 EST 2017



**Federal Deposit
Insurance Corporation**

Each depositor insured to at least \$250,000 per insured bank

null

Last Modified: Wed Dec 06 11:58:44 EST 2017

Army of Wall Street Watchdogs on the Rise

OCC hasn't cut back on share of large-bank examiners based inside banks

- Total bank-bureau examiners
- Large-bank examiners



Source: OCC, Office of the Comptroller of the Currency, via Bloomberg.

Bloomberg

From: McLeod, Mary (CFPB) </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=mcleod, mary (cfpb)65b>
To: Czwartacki, John </o=cfpbexc/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=czwartacki, john201>;
megan.k.burris@omb.eop.gov <megan.k.burris@omb.eop.gov>
Cc:
Bcc:
Subject: Fwd: Daily Press Download
Date: Wed Dec 06 2017 15:53:02 EST
Attachments: Stipulated Order.pdf (1).msg
Stipulated Order.pdf

From: Coleman, John (CFPB) <John.Coleman@cfpb.gov>
Date: December 6, 2017 at 3:15:26 PM EST
To: McLeod, Mary (CFPB) <Mary.McLeod@cfpb.gov>, Lepley, Richard (CFPB) <Richard.Lepley@cfpb.gov>, Van Meter, Stephen (CFPB) <Stephen.VanMeter@cfpb.gov>, White, Sonya (CFPB) <Sonya.White@cfpb.gov>
Subject: RE: Daily Press Download

(b)(5)

From: McLeod, Mary (CFPB)
Sent: Wednesday, December 06, 2017 2:47 PM
To: Lepley, Richard (CFPB); Van Meter, Stephen (CFPB); White, Sonya (CFPB); Coleman, John (CFPB)
Subject: FW: Daily Press Download

FYI

From: Howard, Jennifer (CFPB)
Sent: Wednesday, December 06, 2017 2:40 PM
To: Czwartacki, John S. EOP/OMB; Czwartacki, John; Johnson, Brian (CFPB)
Cc: McLeod, Mary (CFPB); Gilford, Samuel (CFPB); Mayorga, David (CFPB); meghan.k.burris@omb.eop.gov; Fulton, Kate (CFPB); Chea, Keo (CFPB); Ellis, Elizabeth (CFPB); Galicia, Catherine (CFPB); Hand, Delicia (CFPB); Martinez, Zixta (CFPB); Parker Rose, Cheryl (CFPB); Pope, David (CFPB); Smith, Daniel (CFPB)

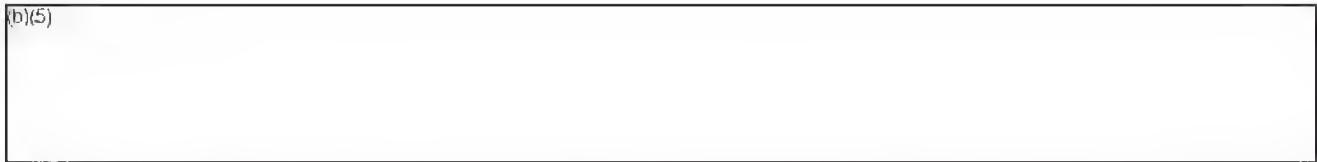
Subject: Daily Press Download

Hi-

We received the following inquiries since we sent the email yesterday:

(b)(5)

(b)(5)



This is the format we were thinking of using. Let me know if this is helpful. Happy to tweak.

Jen Howard

Consumer Financial Protection Bureau

E: jennifer.howard@cfpb.gov

O: 202-435-7454

C


null

Last Modified: Wed Dec 06 15:53:02 EST 2017

To: Coleman, John (CFPB)[John.Coleman@cfpb.gov]
From: Coleman, John (CFPB)
Sent: Wed 12/6/2017 8:14:03 PM
Importance: **Normal**
Subject: Stipulated Order.pdf
Stipulated Order.pdf

null

Last Modified: Wed Dec 06 15:53:02 EST 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHN DOE COMPANY,)
Plaintiff,)
v.) Civil Action No. 1:17-49-RC
CONSUMER FINANCIAL PROTECTION)
BUREAU *et al.*,)
Defendants.)

)

STIPULATED ORDER

During a telephonic status conference on January 11, 2017, at which counsel for all parties was present, counsel for Defendants the Consumer Financial Protection Bureau and its Director, in his official capacity, agreed and represented to Plaintiff and the Court that, as part of the parties' agreement to a proposed briefing schedule and hearing date, the Bureau and its Director shall take no action adverse to Plaintiff on or before Friday, February 10, 2017, including without limitation publicly filing the Director's Decision and Order on Plaintiff's Petition, requiring any action by Plaintiff referenced in the Director's Decision and Order, directly or indirectly publicizing Plaintiff's identity, taking further public action on the Bureau's investigation into Plaintiff and/or initiating any enforcement action against Plaintiff.

Upon consideration of the parties' agreement conveyed to the Court it is hereby:

ORDERED that Defendants shall file any brief in opposition to Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction and Plaintiff's Motion to Proceed under Pseudonym on or before Wednesday, January 25, 2017; and it is

FURTHER ORDERED that Plaintiff shall file any reply brief on or before Friday, February 3, 2017; and it is

FURTHER ORDERED that Defendants have accepted service of Plaintiff's Verified Complaint for Declaratory and Injunctive Relief, and shall answer or otherwise respond to Plaintiff's Verified Complaint for Declaratory and Injunctive Relief within 21 days of an Order by this Court fully resolving Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction; and it is

FURTHER ORDERED that the parties shall appear before the Court at 2:00 p.m. on Thursday, February 9, 2017, for a hearing on Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction.

SO ORDERED.

Dated: 1/12/2017

R. Contreras
Rudolph Contreras
United States District Judge

From: Chicorikas, Nicholas (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=nicholas.chicorikas>
To: [redacted]
Cc:
Bcc:
Subject: FW: Consumer Bureau's New Leader Steers a Sudden Reversal
Date: Wed Dec 06 2017 07:59:50 EST
Attachments:

Confidentiality Notice: If you received this email by mistake, you should notify the sender of the mistake and delete the e-mail and any attachments. An inadvertent disclosure is not intended to waive any privileges.

From: Rizkalla, Andrew (CFPB)
Sent: Wednesday, December 06, 2017 7:58 AM
To: _DL_CFPB_NE_Region_Managers
Subject: Consumer Bureau's New Leader Steers a Sudden Reversal

FYI – some people have started talking about this article and your teams may be asking questions.

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region®ion=top-news&WT.nav=top-news>

“...Some employees, including a few of the bureau’s top officials, have welcomed their new leader. Others, pointing to Mr. Mulvaney’s earlier hostility toward the agency and its mission, are quietly resisting. One small group calls itself “Dumbledore’s Army,” according to two of the people who were familiar with their discussions. The name is a reference to a secret resistance force in the “Harry Potter” books...”

Best regards,

Andrew Rizkalla
Assistant Regional Director

Supervision | Northeast Region

(b)(5)

Consumer Financial Protection Bureau

consumerfinance.gov

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From: Kohan, Drew (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=drew.kohan>
To: Rizkalla, Andrew (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=andrew.rizkalla>;
_DL_CFPB_NE_Region_Managers </o=cfpbexc/ou=exchange
administrative group
(fydibohf23spdlt)/cn=recipients/cn=dlcfpbneregionmanagers254426
25>
Cc:
Bcc:
Subject: RE: Consumer Bureau's New Leader Steers a Sudden Reversal
Date: Wed Dec 06 2017 08:20:32 EST
Attachments:

Thanks for the heads up Andrew. Interesting article. I would hope no one on our team is quietly resisting leadership that all 4 ADs are following.

Let's continue to focus on where our feet are... whether that means hard copies of audit reports or Reg U courses.

From: Rizkalla, Andrew (CFPB)
Sent: Wednesday, December 06, 2017 7:58 AM
To: _DL_CFPB_NE_Region_Managers
Subject: Consumer Bureau's New Leader Steers a Sudden Reversal

FYI – some people have started talking about this article and your teams may be asking questions.

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region®ion=top-news&WT.nav=top-news>

"...Some employees, including a few of the bureau's top officials, have welcomed their new leader. Others, pointing to Mr. Mulvaney's earlier hostility toward the agency and its mission, are quietly resisting. One small group calls itself "Dumbledore's Army," according to two of the people who were familiar with their discussions. The name is a reference to a secret resistance force in the "Harry Potter"

books..."

Best regards,

Andrew Rizkalla

Assistant Regional Director

Supervision | Northeast Region

(b)(6) [redacted]

Consumer Financial Protection Bureau

consumerfinance.gov

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From: Cassidy, David (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=david.cassidy>
To: Patty Cassidy <patty.cassidy@yahoo.com>
Cc:
Bcc:
Subject: Straight outta Hogwarts
Date: Wed Dec 06 2017 12:26:36 EST
Attachments:

See 'Dumbledore's Army' comment – NYT!

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html>

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From: Kohan, Drew (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=drew.kohan>
To: Chow, Edwin (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=edwin.chow>; Carley, James
(CFPB) </o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=james.carley>; Schroeder,
John (CFPB) </o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=john.schroeder>
Cc:
Bcc:
Subject: FW: Consumer Bureau's New Leader Steers a Sudden Reversal
Date: Wed Dec 06 2017 08:22:02 EST
Attachments:

In case you haven't seen this.

I quickly sent my managers the following:

I would hope no one on our team is quietly resisting leadership that all 4 ADs are following.

From: Rizkalla, Andrew (CFPB)
Sent: Wednesday, December 06, 2017 7:58 AM
To: _DL_CFPB_NE_Region_Managers
Subject: Consumer Bureau's New Leader Steers a Sudden Reversal

FYI – some people have started talking about this article and your teams may be asking questions.

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=second-column-region®ion=top-news&WT.nav=top-news>

"...Some employees, including a few of the bureau's top officials, have welcomed their new leader. Others, pointing to Mr. Mulvaney's earlier hostility toward the agency and its mission, are quietly resisting. One small group calls itself "Dumbledore's Army," according to two of the people who were familiar with their discussions. The name is a reference to a secret resistance force in the "Harry Potter" books..."

Best regards,

Andrew Rizkalla

Assistant Regional Director

Supervision | Northeast Region

(b)(6)



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From: (b)(6)
To: Cassidy, David (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=david.cassidy>
Cc:
Bcc:
Subject: Re: Straight outta Hogwarts
Date: Wed Dec 06 2017 12:58:03 EST
Attachments:

No surprise. What a tool. Glad your plan is to escape. Feel bad for the other hard working folks who believe in the mission.

From: "Cassidy, David (CFPB)" <David.Cassidy@cfpb.gov>
To: (b)(6)
Sent: Wednesday, December 6, 2017 12:26 PM
Subject: Straight outta Hogwarts

See 'Dumbledore's Army' comment – NYT!

<https://www.nytimes.com/2017/12/05/business/cfpb-mick-mulvaney.html>

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From: Wilkerson, Antoninette (CFPB)
<antoninette.wilkerson@cfpb.gov>
To: Lazier, Raynell (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=laizer, raynell9ef>;
Wilkerson, Antoninette (CFPB) </o=cfpbexc/ou=exchange
administrative group
(fydibohf23spdlt)/cn=recipients/cn=wilkerson, antoninette
(cfpb)adf>
Cc:
Bcc:
Subject: Conversation with Lazier, Raynell (CFPB)
Date: Wed Dec 06 2017 15:44:45 EST
Attachments:

Wilkerson, Antoninette (CFPB) 3:37 PM:

Do you need me to add these keywords to the Excel sheet? All communications sent or received that contain the words "Dumbledore,"

"Dumbledore's Army," "Snape," "Voldemort," "He-who-shall-not-be-named,"
"encrypted message," OR "encrypted messaging."

I'm logging the 2nd FOIA request with reference to dumbledore's army, etc.

Lazier, Raynell (CFPB) 3:37 PM:

only the d...army

Wilkerson, Antoninette (CFPB) 3:38 PM:

Ok.

From: Wilkerson, Antoninette (CFPB)
<antoninette.wilkerson@cfpb.gov>
To: Walter, Holly (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=holly.walter>; Wilkerson,
Antoninette (CFPB) </o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=wilkerson, antoninette
(cfpb)adf>
Cc:
Bcc:
Subject: Conversation with Walter, Holly (CFPB)
Date: Wed Dec 06 2017 15:55:52 EST
Attachments:

Wilkerson, Antoninette (CFPB) 3:55 PM:

I simply can NOT with this Dumbledore Harry Potter business LOL

what in the world!!!!!!!!!

From: Goldstone, Daniel (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=goldstone, daniela39>
To: Acunia, TJ (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=thomas.acunia>
Cc: Burlingham, Joshua (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=burlingham, joshua884>
Bcc:
Subject: Re: Missed conversation with Acunia, TJ (CFPB)
Date: Wed Sep 27 2017 21:51:07 EDT
Attachments:

Snaps..snaps....Severus Snape,,,

From: Acunia, TJ (CFPB) <Thomas.Acunia@cfpb.gov>
Date: September 27, 2017 at 5:10:43 PM EDT
To: Goldstone, Daniel (CFPB) <Daniel.Goldstone@cfpb.gov>, Acunia, TJ (CFPB) <Thomas.Acunia@cfpb.gov>
Subject: Missed conversation with Acunia, TJ (CFPB)

Acunia, TJ (CFPB) 5:10 PM:

Dumbledore

From: Bar Briefs | State Bar of Wisconsin
<barbriefs@wisbar.org>
To: Rohlich, Nelle (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=nelle.rohlich>
Cc:
Bcc:
Subject: Your weekly collection of practice tips, upcoming events, and new products
Date: Thu Sep 14 2017 16:44:00 EDT
Attachments:

SEPTEMBER 14, 2017 Practice tips, membership benefits, upcoming events, new products, and more!

A Master Mentor You Will Become

Many people who watched the original Star Wars® film trilogy as children had dreams of growing up to become Luke Skywalker, Han Solo, Princess Leia, or even Darth Vader (you know who you are). If that's you – and your dreams of becoming a hyperspace-jumping, lightsaber-battling, Force-wielding powerhouse never came true – take heart. We're about to reveal how you can still become one with the Force.

Follow in the tiny, halting footsteps of Jedi Master Yoda. With his unique turns of phrase, Yoda imparted wisdom and helpful instruction to Luke Skywalker as he struggled to tap into his natural abilities. Without Yoda's guidance, the fate of the galaxy would have turned out quite differently.

If saving the galaxy isn't motivation enough to become a mentor, here are some other benefits to consider.

1. Stay hip and trendy. Interested in what's new and exciting in the legal industry, but haven't found the time to become more informed? Being a mentor is a perfect reason to read those legal blogs or try out that new practice management software.
2. Advance your career. Show your HR department you're connected to different age groups and are a team player. Is there a senior-level colleague who's generally inaccessible? While giving your mentee a tour of the office, make sure he or she gets a personal introduction to all of the senior partners.
3. Stop feeling out of touch with younger generations. Mentoring is a great way to learn how different generations think. Exploring a variety of viewpoints can make you more adaptable, a better communicator, and less resistant to change.
4. Help chart a (happier) course. Maybe your career path is dotted with a few regrets, misgivings, and woes. Wouldn't it be cool if those hard-learned lessons could be used for the greater good? Knowing you've helped someone on the path to increased job satisfaction can be just as gratifying for the mentor as the mentee.

We're not saying that you'll save the galaxy by becoming a mentor. But, we're not NOT saying it either.

Five Questions to Answer Before Becoming a Mentor

1. Am I comfortable providing honest, constructive feedback? Your mentee will be relying on you to

help correct and guide his or her practices and professional behavior.

2. Do I have the experience necessary to help someone? You must be able to answer questions and give guidance on a wide range of topics.

3. Can I teach, not tell? It doesn't do any good if you always tell your mentee what to do. Instead, you must help him or her to think independently.

4. Do I have the time? Be honest. Having a mentee will require an investment of time on your part. You don't want to shortchange your mentee, your practice, or yourself.

5. What might I learn from having a mentee? A mentoring relationship goes two ways, so think about the ways you might improve as well.

If you think your answers to these questions are pointing you towards mentorship, apply to be a mentor in the State Bar's Ready. Set. Practice. program. You can also check out these helpful mentoring resources:

*Getting Started: Mentors and Mentees

*Ready. Set. Practice. Mentoring Handbook

*3 Things to Consider Before Becoming A Career Mentor

Find Full-Throttle CLE

Keep your practice soaring with CLE from four unique tracks at the 2017 Wisconsin Solo & Small Firm Conference. In this week's issue of Bar Briefs, we're exploring the Substantive Law Track.

Stay on top of changes in multiple practice areas while polishing your legal skills. Sessions in the Substantive Law Track are packed with the latest trends and developments in hot practice areas. Topics include:

*Attorney-Mediators as Drafters: Understanding the New Rule

*Real Estate Essentials for Every Practice

*Understanding Special Needs Trusts

*Immigration Law for the Rest of Us

In addition, you can also explore helpful subjects in the Practice Management, Technology, and Quality of Life/Ethics Tracks.

See the complete CLE schedule and register today at [www.wssfc.org!](http://www.wssfc.org)

Increase Lapham Dies in Oconomowoc – 1875

Known as the "Father of the National Weather Service," Increase Lapham – author, botanist, scientist, and engineer – believed weather patterns could be predicted if weather data was reported and recorded .1

He successfully lobbied Congress to devise a central database that would help alert Midwest farmers and Great Lakes shipping companies about impending storms. In 1870 the National Weather Bureau

was established and later became the National Weather Service.

Lapham lived nearly 50 years in the Milwaukee area until his death on September 15, 1875. His obituary in the Wisconsin State Journal announced that "a sad calamity has fallen upon the State!"

Source: <https://www.wisconsinhistory.org/Records/Newspaper/BA14272>

Put Invaluable Information at Your Client's Fingertips

Understanding Guardianships: A Handbook for Guardians

With an aging population, many of your clients are already challenged with meeting the unique needs of elderly parents. Understanding Guardianships provides them with basic information about guardianships and the duties of a guardian. It outlines how courts appoint guardians and keep track of a guardian's actions. Plus, it provides guidance for those who are, or will be, appointed as a guardian. It's one more way to help your clients address a legal issue that they may be facing. Topics covered include:

- *The Nature of Guardianship
- *The Court Procedure
- *The Guardian
- *Guardian of the Estate
- *Guardian of the Person
- *Special Problems in Guardianships
- *Additional Questions Regarding Medical Treatment and Placement

Understanding Guardianships: A Handbook for Guardians is one of three titles of State Bar of Wisconsin's Consumer Handbooks. These booklets are intended to help your clients navigate common, but highly technical topics with detailed instructions, forms, definitions, and more information. Use these guides to promote your practice, educate your clients, and improve your community visibility.

For additional details, visit our website.

Book of the Week Ends Friday, September 15

Wisconsin Civil Procedure Before Trial

Print Book:
List: \$219 member / \$269 nonmember
Sale price: \$175.20 member / \$215.20 nonmember

Books UnBound:
List: \$159 member / \$199 nonmember
Sale price: \$127.20 member / \$159.20 nonmember

To claim your discount, use priority code B5019BB when ordering online or mention it when calling (800) 728-7788.*

41st Annual Worker's Compensation Update

Bracing for Impact - Drafting for the New Partnership Audit Rules

Effective Time Management: Getting More Done With Less

Game Theory and Its Application to Family Law

Intellectual Property and the Supreme Court: Important Decisions from the 2016-2017 Term

Keys to Convincing Communication - Featuring Steve Hughes

Navigating the Challenging Health Insurance & Health Plan Environment - AMC 2017

Public Records, Open Meetings Update

The ABCs of Child Support in Wisconsin

The Disappearing Witness in Personal Injury Cases - AMC 2017

Understanding the Divorce Process from A to Z - AMC 2017

What Debts Are Your Clients Stuck With Even After Bankruptcy? - AMC 2017

Division & Section Connection

Special Nonresident CLE and Networking Reception in Chicago!

Thursday, October 19, 2017
Intercontinental Hotel
505 N. Michigan Avenue
Chicago, IL

2 – 5 p.m. CLE Program

"Notable Opinions of the Wisconsin Supreme Court Over the Last Decade and the Illinois Perspective"
presented by Wisconsin Supreme Court Justice Michael J. Gableman and Attorney Ellen O'Rourke

5 – 7 p.m. Networking Reception

*3.0 CLE credits and 1.0 EPR credit will be applied for in Wisconsin and Illinois.

Space is limited and sure to fill up fast, so register today!

Economic Essentials for Family Law Attorneys

Divorces are never easy, but when complex financial concerns are involved they become even tougher. Show Me the Money: Advanced Financial Issues in Family Court, co-produced by the Family Law Section of the State Bar of Wisconsin and PINNACLE®, can help you find your way through challenging situations that are becoming more common in today's divorce cases.

Register today!

The Elder Law Section Invites You to Attend Legal Issues of the Aging

Hear from professionals involved in Wisconsin's infrastructure for the aging, including experienced law practitioners and members of organizations caring for the elderly. Plus, receive an update on important case law, administrative, and fair hearing decisions impacting your practice.

Learn more and register.

Who Is Your Favorite Movie Mentor?

- *Professor Charles Xavier (X-Men)
- *Dumbledore (The Harry Potter Series)
- *Fast Eddie Felson (The Color of Money)
- *Gordon Gekko (Wall Street)
- *Mr. Miyagi (The Karate Kid)
- *Mickey Goldmill (Rocky)
- *Yoda (The Empire Strikes Back)
- *John Keating (Dead Poets Society)
- *Obi-Wan Kenobi (Star Wars)

State Bar Expo at UW Law School

Tuesday, October 3, 2017
5:30 – 7:30 p.m.
UW Law School Atrium

Join the State Bar of Wisconsin's Sections and Divisions for a night of hors d'oeuvres, beverages, and networking. Attorneys will be present to speak with you about their practice areas as well as how you

can get involved in a Section or Division. It's an outstanding opportunity to meet lawyers and learn about the State Bar of Wisconsin. Come ready to mingle – and possibly win a prize!

¹<http://dnr.wi.gov/wnrmag/html/stories/2007/feb07/lapham.htm>

*This offer is not available with any other discount and expires September 15, 2017. Discount cannot be applied to previous purchases, or used for renewals of subscriptions, auto-supplementation subscriptions, or Books UnBound full library subscriptions.

MKT478E

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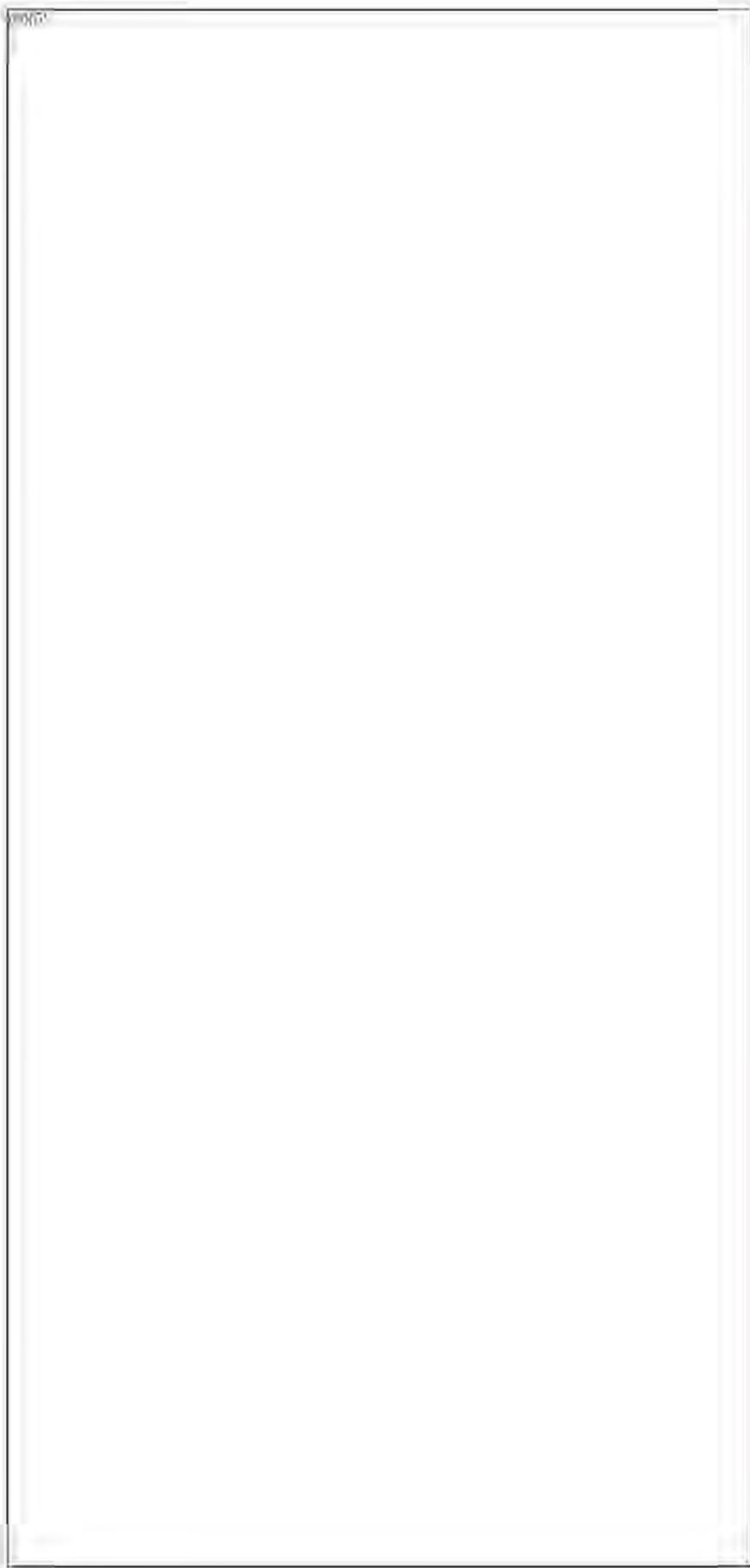
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To: Syed, Waeiz (CFPB)
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Cc:
Bcc:
Subject: Re: Missed conversation with Syed, Waeiz (CFPB)
Date: Wed Sep 06 2017 16:20:08 EDT
Attachments:

(b)(5)(b)(8)

From: Syed, Waeiz (CFPB) <Waeiz.Syed@cfpb.gov>
Date: September 6, 2017 at 4:13:40 PM EDT
To: Hernandez, Chantal (CFPB) <Chantal.Hernandez@cfpb.gov>, Syed, Waeiz (CFPB) <Waeiz.
Syed@cfpb.gov>
Subject: Missed conversation with Syed, Waeiz (CFPB)

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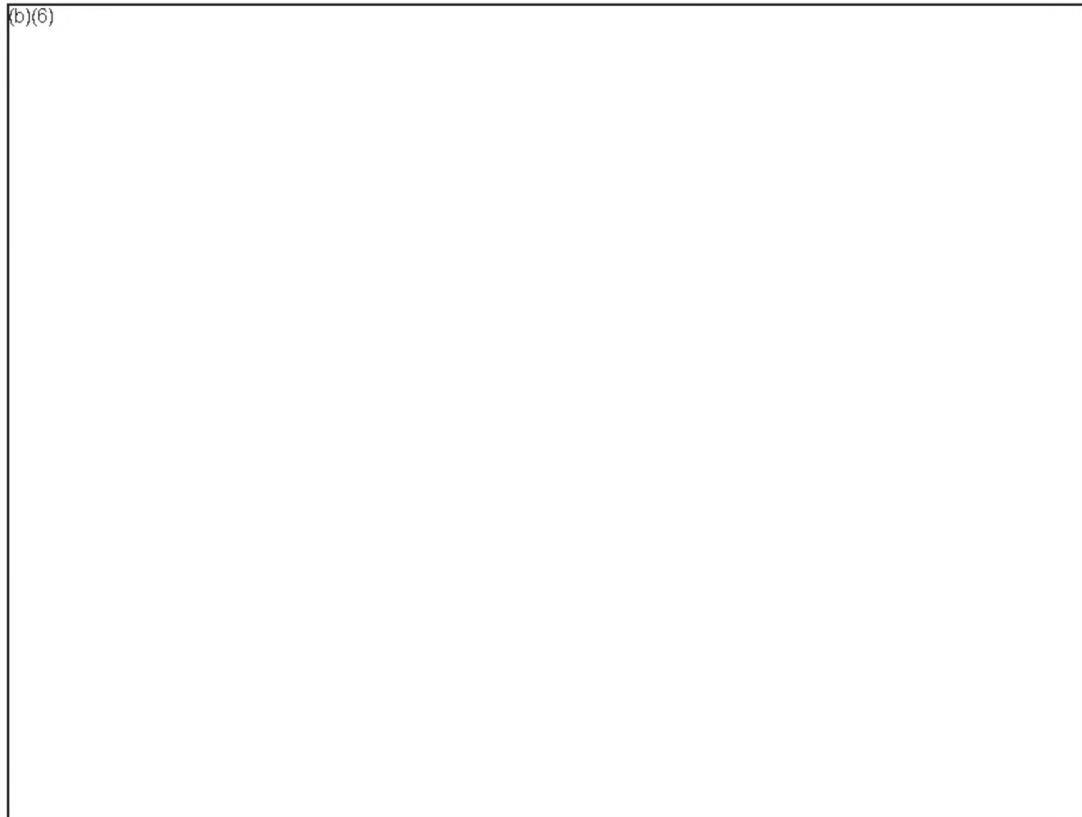
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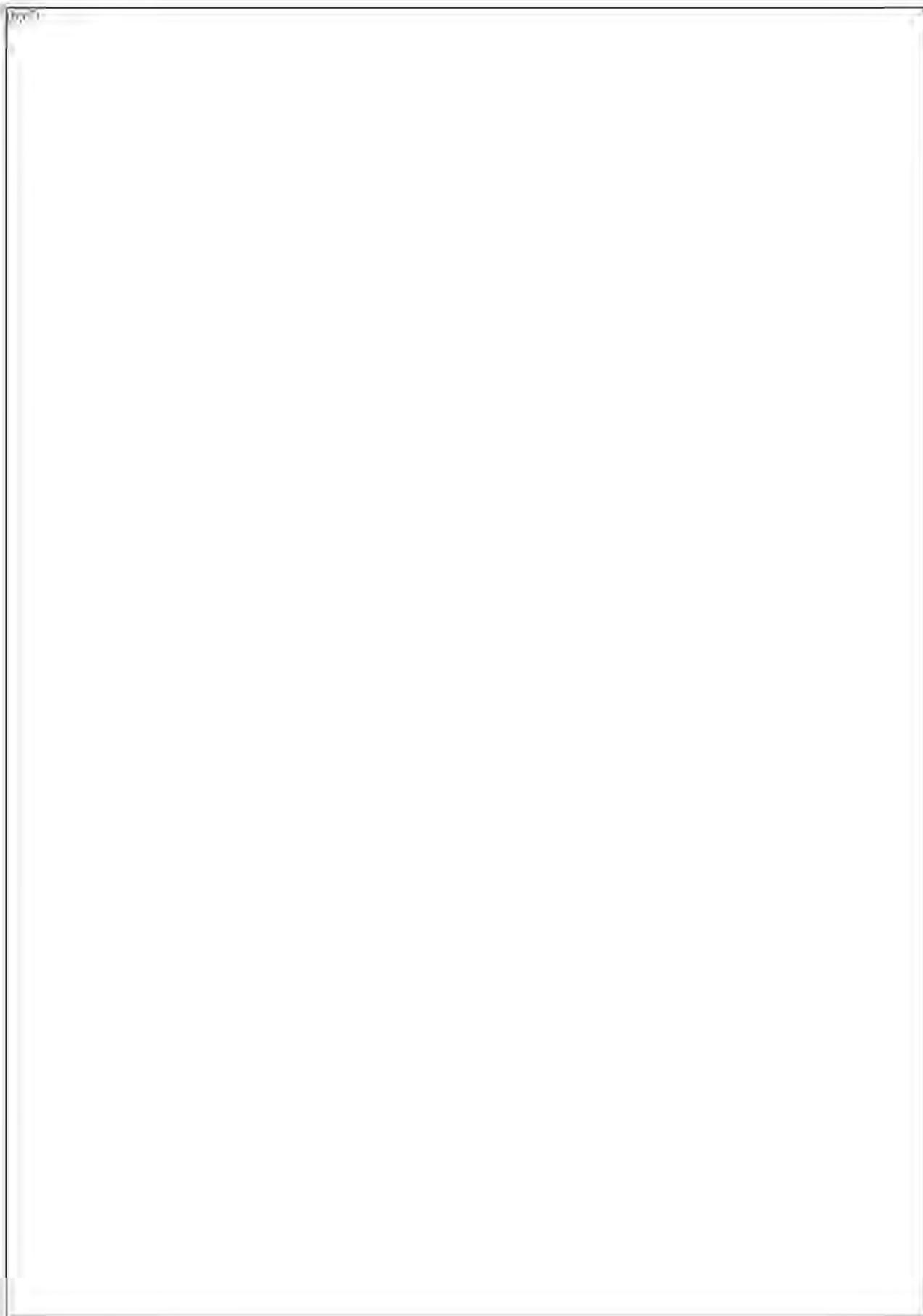


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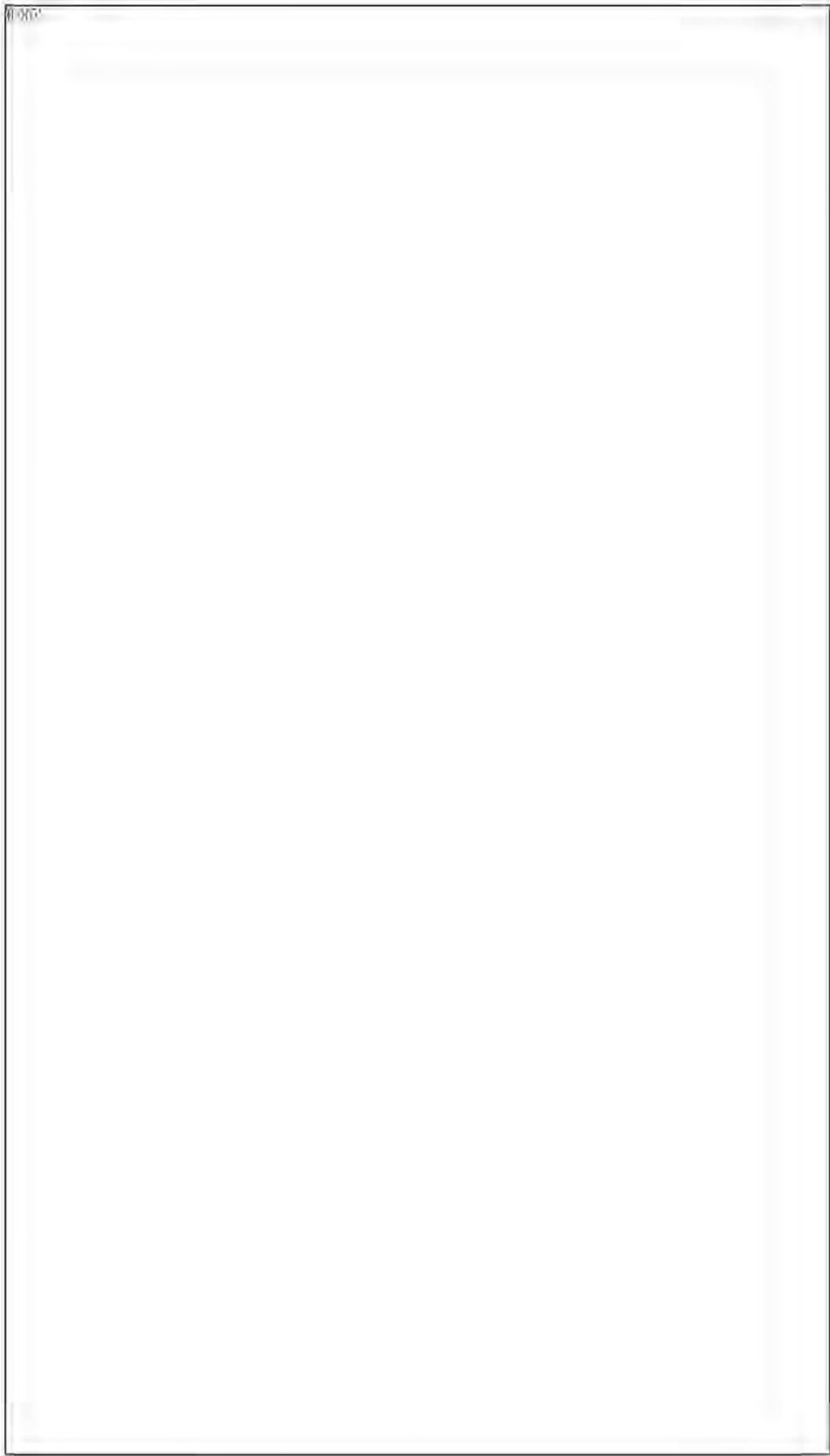




image001.png for Printed Item: 117 (Attachment 1 of 1)

From: Arthur, Bruce (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=bruce.arthur>
To: Desai, Vijay (CFPB)
</o=cfpbexc/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=vijay.desai>
Cc:
Bcc:
Subject: FW: CFPB-2018-121
Date: Thu Dec 07 2017 13:13:01 EST
Attachments: eric bolinder 12.6.17 CoA Institute FOIA Request 12.6.2017.pdf
CWEmbed1.unknown
CWEmbed2.pdf

Vijay,

FYI, this is the other FOIA request I am working on right now. Bob is helping us identify what we can do.

Thanks,
Bruce

From: Walter, Holly (CFPB)
Sent: Thursday, December 07, 2017 11:25 AM
To: Arthur, Bruce (CFPB)
Subject: CFPB-2018-121

Good Morning!

The Bureau received a FOIA request related to technology equipment and software. Specifically, 1) CFPB devices on which encrypted messaging applications were installed, 2) efforts by CFPB to recover, investigate the use of, or archive messages sent over any encrypted messaging application, and 3) communications sent or received over any encrypted messaging application OR similar applications. I am attaching the request for your review. When you have a moment, can we discuss the request?

Holly C. Walter

Government Information Specialist | Operations Division

Office: (202) 435-7210 | Mobile: (202) 407-1386

Consumer Financial Protection Bureau

consumerfinance.gov/foia

App	# of CFPB Phones Installed On
Snapchat	13
WhatsApp	5
Duo - Mobile	3
Duo	2
Signal	1
Kik	1
Viber	1



CFPB Mobile Device Acceptable Use Guidelines and Standards

This document provides guidelines and standards for the acceptable use of CFPB government-issued mobile devices. These guidelines and standards apply to all CFPB personnel to whom the Bureau issues iPhones.

All users must be aware of their responsibilities and comply with these acceptable use guidelines and standards. Violations of any of the items below may result in loss of, or limitations on, the use of this mobile device as well as disciplinary and/or legal action, including but not limited to termination of employment.

Definitions

- a. **Limited personal use:** Activity that is conducted for purposes other than accomplishing official or otherwise authorized activities, does not adversely affect the employee's job performance, is of negligible cost, and is limited to those situations where the Government is already providing equipment or services.
- b. **Personal identification number (PIN):** A number allocated to or created by a user to support authentication and access to an electronic device or a computer system or application.
- c. **Jailbreak:** To modify a smartphone or other electronic device in order to remove security restrictions imposed by the manufacturer or system administrator, e.g. to enable installation of unauthorized software.
- d. **Root:** When referring to digital technology, to gain access to the operating system of a smartphone, tablet, gaming console, etc., with the intent to alter system files or settings. Compare with Jailbreak above.
- e. **Secure container:** In mobile device management, an authenticated and encrypted area of a user's device that separates institutional information and proprietary functionality from the user's personal data and applications.
- f. **Texting or text messaging:** As defined in Executive Order 13513 and for the purpose of compliance with this supplement, reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

Background

The CFPB provides mobile devices to support the business needs of its employees and others approved for the use of these devices. This government-furnished equipment is subject to the same handling requirements and limited use provisions as outlined in the Acceptable Use of CFPB Information Technology Resources Policy.

The CFPB employs container-based technology to secure sensitive content on its mobile devices. This secure container is accessed through the Citrix Secure Hub and associated applications on your mobile device. The CFPB allows limited personal use of device functionality and applications that reside outside the secure container in accordance with the acceptable use policy. Limited personal use of IT resources is a privilege, and may be exercised only when the use does not result in a loss of productivity, interfere with official duties or business, or involve more than minimal additional expense to the government.

General Standards of Use

- All personnel to whom the CFPB provides mobile devices are responsible for protecting the confidentiality, integrity, and availability of CFPB information resources while using these devices, and for physically securing and protecting them.
- Users must operate CFPB-issued mobile devices consistent with authorized purposes for government-furnished IT equipment and exercise responsible judgment guided by supervisory direction, CFPB and federal policy.
- Recorded information created or received on this device that documents the bureau activities, decisions, policies and procedures as well as on other information that add value to the understanding of the bureau are property of the federal government and not the user. Federal records must be stored, and maintained in accordance with the bureau records retention schedules.
- As with all government-furnished equipment used to display, transmit, store, and/or process government information, including information originated by CFPB-regulated financial institutions, a right to privacy does not exist, including during periods of limited personal use.
- Users must use the Citrix XenMobile App Store to download any CFPB managed applications into the Citrix secure container.
- If enabled, users may use CFPB-issued mobile devices to establish wireless access points (known as a “personal hotspot” on the iPhone) to which other CFPB equipment, such as laptops, may be connected for Internet connectivity.
- The service provider (i.e., AT&T or Verizon) maintains records of all business and personal calls, texts, Internet browsing, and voicemail. These records are subject to court order and subpoena in both civil and criminal proceedings, and may be the subject of Freedom of Information Act or other information requests. The CFPB may review these records if misconduct, improper activity, or criminal conduct is suspected, and may provide records to appropriate authorities. The CFPB may also review call and other mobile device usage features as part of the management control program established for these devices.
- This government-issued mobile device is intended as a productivity tool for business use. Service may be terminated for non-use, limited business use, or excessive personal use.

- You may not use Government purchasing authority or a Government charge card for personal acquisitions, even if you reimburse the Government.
- Users must take proper care of government-issued mobile devices and utilize screen protectors and protective cases to protect against damage.

Limited Personal Use

- The CFPB allows limited personal use of device features outside the Citrix Secure Container, with the caveat that limited personal use must not:
 - result in a loss of productivity
 - interfere with official duties or business
 - involve more than minimal additional expense to the government.
- Users may download to their mobile devices, applications or other content for productivity purposes and personal use outside of the Citrix Secure Container. Users must download these applications and content from the authorized source(s) for their device type, for example, the iTunes Store when using an iPhone.
- To access the iTunes Store, users should create a new AppleID using their cfpb.gov email address. Users may choose to associate a credit card with this AppleID, but must use a personal credit card as they are responsible for any charges incurred. Users *shall not* use their government issued travel or p-card.
- Users are responsible for backing up any personal content using the device-specific online feature, e.g., iCloud, if available. The CFPB retains no liability for loss or damage to this personal content. Note, all personal content is subject to court order and subpoena in both civil and criminal proceedings, and may be the subject of Freedom of Information Act or other information requests.

Prohibited Use

- Users must not alter the established security settings on their government-issued mobile device(s), or “root” or “jailbreak” their devices
- Users must not connect, directly or wirelessly, their government-issued mobile devices to non-CFPB equipment, including, for example, personally owned computers, and non-CFPB printers.
- Users must not use the texting or device-to-device connection features on their devices for work purposes other than quick, informative exchanges that would *not* qualify as an official record (e.g., suggesting a new meeting time, verifying a colleague’s whereabouts, etc.). This feature *must not* be used for work-related exchanges for which official records must be maintained.
- Users must not use the texting or device-to-device connection features on their devices to circumvent Records Management responsibilities for their work processes.

- Users must not cut and paste or otherwise move CFPB sensitive data between the secure container and the non-container space of the phone.
- Camera or voice recording features outside the secure container must not be used to photograph or record any CFPB related work activities or CFPB nonpublic information, including information protected by the Privacy Act of 1974.
- Users must not use government-issued mobile devices to display, process, store, or transmit obscene, pornographic, sexually explicit, threatening, or racially or sexually harassing content.

Loss of Mobile Device

- Contact the CFPB Service Desk at 202-435-7777 or ServiceDesk@cfpb.gov within an hour of discovering the loss of a government provided electronic mobile device.
- Notify the CFPB Service Desk immediately if the government provided mobile device is recovered so that all attempts at financial recovery of the lost device are ceased.
- If it's determined the loss was a result of gross user negligence or wanton disregard, the user will be liable to the CFPB for the replacement cost of the device.
 - In general, a single unexplained loss within any 12-month period will not be considered evidence of negligence as long as the user complies with the responsibilities of reporting a loss as specified in the CFPB Asset Management Policy.
 - Failure to comply with loss reporting as defined in the CFPB Asset Management Policy or a second loss of a government provided mobile device within a 12-month period will create a presumption of gross negligence. This presumption can be rebutted if the user establishes that the loss was caused by external circumstances that could not reasonably have been predicted or protected against. For example, evidence that the device was stolen in a robbery will rebut the presumption of gross negligence.

Reference(s)

Acceptable Use of CFPB Information Technology Resources

https://team.cfpb.local/wiki/index.php/Acceptable_Use_of_CFPB_Information_Technology_Resources

CFPB Records Management Policy

https://team.cfpb.local/wiki/index.php/Records_Management_Policy

Acknowledgement and Acceptance of Terms and Conditions

I recognize that neglecting or violating these iPhone acceptable use guidelines and standards could adversely affect the CFPB's public mission. I understand that my failure to comply with these rules or other established policies, standards, and procedures could result in a conduct-based or disciplinary action. Content on the CFPB's information systems is the CFPB's property and I understand that this information may be accessed as needed to support official business or authorized investigations, and is not to be construed as private.

Print name:

Sign name

Date